



African Peer Review
Mechanism

AFRICAN PEER REVIEW MECHANISM

COUNTRY REVIEW REPORT NO. 12



KINGDOM OF LESOTHO

JUNE 2010





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FOREWORD

It gives me great pleasure to present the Country Review Report and the National Programme of Action of the Kingdom of Lesotho. This is the twelfth report in the series and the ninth one to have been completed under my stewardship as Chairperson of the APR Forum.

The Report highlights a number of commendable practices for the Kingdom of Lesotho. These include the peaceful coexistence of a constitutional monarchy with a parliamentary system of government, the adoption and implementation of a mixed party proportional representation system for enhanced political inclusiveness, and the security sector reforms that have contributed to peace and stability in the country. Furthermore, Lesotho has one of the highest adult literacy rates in Africa.

The APRM offers Lesotho the opportunity to consolidate these achievements. In this context, I invite all the key stakeholders in the country and the Development Partners to work together with Lesotho for the successful implementation of the Programme of Action emanating from the exercise. In this regard, the APR Forum will receive annual progress reports and assist with the implementation process, as mandated in the APRM Base Documents.

I would like to thank the Government and People of the Kingdom of Lesotho for reaching this stage of the process. I extend my appreciation to the other member countries of the APR Forum for their commitment and support to the Mechanism as a whole. I am also grateful to the APR Panel of Eminent Persons and the APR Secretariat for preparing this Country Review Report.



Meles Zenawi
Chairperson of the APR Forum



COUNTRIES PARTICIPATING IN THE AFRICAN PEER REVIEW MECHANISM (APRM) AND THE AFRICAN PEER REVIEW (APR) PANEL OF EMINENT PERSONS AS AT JUNE 2010

Countries that have acceded to the APRM

Algeria, Angola, Benin, Burkina Faso, Cameroon, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritania,¹ Mauritius, Mozambique, Nigeria, Republic of Congo, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda and Zambia

APR Panel of Eminent Persons

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(Chairperson and member leading the Lesotho country review process)

Professor Mohammed Seghir Babès, from Algeria, representing North Africa
(Member)

Ambassador Bethuel Kiplagat, from Kenya, representing East Africa
(Member)

Mrs Graça Machel, from Mozambique, representing Southern Africa
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Mrs Domitila Mukantagazwa, from Rwanda, representing East Africa
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¹ Suspended after a military coup.



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The African Peer Review Mechanism Panel of Eminent Persons (APR Panel) wishes to take this opportunity to congratulate His Majesty King Letsie III, the government and the people of Lesotho for reaching this stage of the review process. Lesotho, along with Angola, Malawi, Sierra Leone and Tanzania, acceded to the African Peer Review Mechanism (APRM) on 8 July 2004, then bringing the membership of the APRM to 23 countries. It is therefore commendable that Lesotho is now the twelfth country to receive a Country Review Mission (CRM) and the only one of its compatriot acceding countries to have done so. The APR Panel expresses its unreserved gratitude to the Right Honourable Pakalitha Bethuel Mosisili, prime minister of Lesotho, for his resolute commitment to the review process.

Professor Adebayo Adedeji, chairperson of the APR Panel, led the CRM with the dedication and commitment that have signalled his career to date. His diligence and meticulous attention to detail enabled a timeous finalisation of the report. Deserved accolade is also bestowed upon Dr Chris Stals, former member of the APR Panel. Dr Stals led the process in Lesotho in the formative stages, participated in the CRM and provided invaluable insights, particularly in the areas of corporate governance and economic governance and management.

The national process was driven by a number of actors, notably the Honourable Mohlabi Kenneth Tsekoa (minister of foreign affairs and international relations, whose ministry was the Focal Point for the APRM), Mrs Momosebi Pholo [chairperson of the National Governing Council (NGC)] and her team, Mr JT Mesing (principal secretary in the Ministry of Foreign Affairs and International Relations), and Ambassador Masuhla Leteka and the staff of the National Secretariat. Sincere gratitude goes to all stakeholders in Lesotho for the enthusiasm with which they embraced the APRM and for their tireless contribution to the success of the national process.

The review was supported by a team of independent experts representing various African nationalities. They are: Dr Samuel G Amoo (Ghana), Professor James Katorobo (Uganda), Professor Jonathan Mayuyuka Kaunda (Malawi) and Professor Maxi Schoeman (South Africa) in the field of democracy and good political governance; Professor Oladeji Ojo (Nigeria) in the field of economic governance and management; Ms Gertrude Takawira (Zimbabwe) in the field of corporate governance; and Dr Yousif A Suliman (Sudan) in the field of socioeconomic development.

The APRM also wishes to thank its designated strategic partners for their invaluable support: the African Development Bank (AfDB); the Regional Bureau for Africa (RBA) of the United Nations Development Programme (UNDP); and the United Nations Economic Commission for Africa (UNECA). The following experts were deployed to support the Lesotho country review process: Mr Dawit Makonnen (independent consultant, AfDB); Dr Adam Elhiraika (officer in charge of the Macroeconomic Policy Division, UNECA); and Dr Pancrace Niyimbona (energy officer, UNECA).

From the APR Secretariat, Ms Evelynne Change (coordinator, Corporate Governance) and Ms Nana Boateng (research analyst, Socioeconomic Development) participated in the CRM and worked to finalise the report.



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MAP OF LESOTHO



COUNTRY FACT SHEET²

Location	Southern Africa, and entirely landlocked by the Republic of South Africa
Area	30,555 km ²
Population	1.88 million (2007 estimate)
Capital	Maseru
Main towns	Butha-Buthe, Hlotse, Mafeteng, Mohale's Hoek, Mokhotlong, Qacha's Nek, Quthing, Teyateyaneng and Thaba-Tseka
Land use and topography	9 per cent is arable land; highveld, plateau and mountains
Ethnic groups	Basotho
Languages	Sesotho and English
Religion	Predominantly Christian, comprising Roman Catholic, Anglican, evangelical and other denominations; indigenous beliefs are still widely practised
Districts	Berea, Butha-Buthe, Leribe, Mafeteng, Maseru, Mohale's Hoek, Mokhotlong, Qacha's Nek, Quthing and Thaba-Tseka
District councils	10
Community councils	128
Municipal council	One, in Maseru
Cabinet ministries	25
Constituencies	80 (plus 40 proportional party representatives)
Independence	1966
Constitution	2 April 1993
Legal system	Based on Roman Dutch law, English law and customary law
Executive	Elections were last held in February 2007, and the next are to be held in 2012
Legislature	Bicameral Parliament [Senate (Upper House) and National Assembly (Lower House)]
Judiciary	Court of Appeal and High Court

² Sources: Except where indicated otherwise, compiled from statistics provided by: the Lesotho Bureau of Statistics (BOS); the Central Bank of Lesotho (CBL); the Ministry of Health and Social Welfare (MoHSW); the Ministry of Education and Training (MoET); the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM); the Ministry of Finance and Development Planning (MoFDP); the National AIDS Commission (NAC); and the Food and Nutrition Coordinating Office (FNCO).



ECONOMIC INDICATORS

General economic indicators	
Total gross domestic product (GDP – nominal, million USD, 2008)	1,779.10
GDP per capita (USD, 2008)	913.87
GDP per capita average annual growth rate (1990–2006)	3.86 per cent
Real GDP growth (2008)	3.1 per cent
Exchange rate (loti/USD) (December 2007)	6.63
Budget deficit (2006/2007)	USD 66.61
Long-term debt (debt outstanding disbursed, or DOD, current USD, 2005)	USD 730.83
Workers' remittances received (USD, 2006)	USD 7,943.81
Trade in million USD (current prices, 2007)	Exports: 920.97 Imports: 2,003.47
Major exports	Apparel and clothing accessories
Leading export destinations	United States of America (USA), South Africa and Japan
Major imports	Miscellaneous, mineral fuels and transport equipment
Leading import partners	South Africa and Japan
Foreign direct investment (FDI – 2006)	M623 million – 73 companies
Tourism (2006)	Arrivals (664,416)
Average annual rate of inflation (1990–2006)	10.9 per cent
Labour force (2006)	1,363,899
Average per cent of central government expenditure allocated to health (average for 2000–2006)	8 per cent
Per cent of central government expenditure allocated to education (average for 2000–2006)	25 per cent
Per cent of central government expenditure allocated to defence (average for 2000–2006)	0.6 per cent
Government grants in million loti (2006/2007)	M92.4



General economic indicators

Government grants in million loti as a per cent of recipient gross national income (GNI – 2006/2007)	0.6 per cent
Debt service as a per cent of exports of goods and services (2005)	11 per cent

Trade balance (in million USD)

	2003	2004	2005	2006	2007
Trade balance	-517.8	-592.5	-656.6	-667.4	-799
Exports, free on board (FOB)	470.3	660	650.7	699.5	804
Of which: garments	337.8	501.3	527.7	567.2	569.9
Imports, FOB*	-988.1	-1,252.4	-1,307.3	-1,366.9	-1,603
Of which: garment inputs	-145.4	-215.8	-227.1	-273.6	-274.8

Total and per capita GDP 2002/2003–2006/2007

	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Total GDP (million loti)	7,059	7,522	8,332	8,750	10,269
Percentage increase	6.56	10.77	5.02	17.36	14.69
Total population ('000)	2,233	2,282	2,310	2,390	2,505
Percentage increase	2.02	2.20	1.23	3.46	0.63
Per capita GDP (loti)	3,769	4,011	4,439	4,657	5,460
Percentage increase	10.1	6.42	10.67	4.9	17.2

EASE OF DOING BUSINESS IN LESOTHO

Ease of ...	Doing business 2009 rank	Doing business 2008 rank	Change in rank
Doing business	123	119	-4
Starting a business	125	128	+3
Employing workers	63	60	-3
Registering property	135	133	-2



Ease of ...	Doing business 2009 rank	Doing business 2008 rank	Change in rank
Getting credit	84	79	-5
Protecting investors	142	141	-1
Paying taxes	54	52	-2
Trading across borders	141	132	-9
Enforcing contracts	104	106	+2
Closing a business	69	65	-4

Source: World Bank Doing Business Survey 2009.

EDUCATION

Trend of key primary education indicators in Lesotho, 2002–2006

Year	2002	2003	2004	2005	2006
Enrolment ('000)	418,668	429,720	427,009	422,278	424,855
Number of primary school teachers ('000)	8,908	9,294	9,705	10,154	10,418
Number of primary schools	1,333	1,355	1,412	1,419	1,455
Per cent annual change in enrolment	0.89	2.63	-0.63	-1.11	No change
Pupil-teacher ratio	1:47	1:46	1:44	1:42	1:41
Pupil-classroom ratio	1:63	1:65	1:60	1:55	1:52
School-pupil ratio	1:314	1:317	1:301	1:301	1:301

Trend of key secondary education indicators in Lesotho, 2002–2006

Year	2002	2003	2004	2005	2006
Enrolment ('000)	81,130	83,104	88,142	93,096	94,545
Number of schools	224	228	234	235	240
Number of teachers	3,384	3,470	3,456	3,495	3,673
Per cent growth in enrolment	4.12	2.43	6.06	5.62	No change
Student-teacher ratio	1:24	1:23.9	1:25	1:26.6	1:25.7



Higher education

Higher education in Lesotho consists of education in universities and other tertiary institutions after five years of secondary and high school education. Currently, Lesotho has one public university, one private university and several technical and vocational/tertiary institutions.

Enrolment in the private and public universities in the academic year 2003–2004		
National University of Lesotho (NUL)	Public university	6,714
Limkonkwing University of Technology (2008/2009)	Private university	1,318
Tertiary institutions		
Technical/vocational	Public institution	1,716
Lesotho College of Education	Public institution	2,335
Total		12,083

OTHER BASIC INDICATORS

General	
Under-5 mortality rate (2006)	113 (per 1,000 live births)
Infant mortality rate (under-1-year-olds, 2006)	91 (per 1,000 live births)
Annual number of births (thousands, 2006)	72,229
Annual number of under-5 deaths (thousands, 2004)	113
Life expectancy at birth (2006)	42.4 years
Adult literacy rate (2000–2005)	
Male	75.2 per cent
Female	94.9 per cent
Primary school net enrolment/attendance (2000–2006)	94.2 per cent
Telephone subscribers (as at March 2008)	
Fixed/main lines	47,582
Cellular/mobile	482,455
Electrification rate (2008)	18 per cent
Electricity consumption per capita in kilowatt hours (kWh, 2008)	507 gigawatt hours (GWh) by 62,000 consumers
Human Development Index (HDI – 2007)	0.549
HDI ranking (out of 177 countries in 2007)	138



Poverty statistics in the national household survey for 2002/2003

Population below the poverty line	56.7 per cent
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HEALTH AND NUTRITION

Nutrition

Per cent of infants with low birth weight (1999–2006)	9.2 per cent
Per cent of children under 6 months who are exclusively breast-fed (2000–2006)	39.4 per cent
Per cent of children from 6 to 9 months who are breast-fed with complementary food (2000–2006)	25.1 per cent
Per cent of children under 5 who are underweight (moderate and severe, 2000–2006)	
Underweight	13.8 per cent
Moderate	11.3 per cent
Severe	2.5 per cent
Per cent of children under 5 whose growth is stunted (moderate and severe, 2000–2006)	
Stunted	41.7 per cent
Moderate	27.3 per cent
Severe	14.4 per cent
Vitamin A supplement full-coverage rate (6–59 months, 2005, after NID campaign)	83 per cent (2007)
Households consuming iodised salt (2000–2006, after National Immunisation Day, or NID, campaign)	98.79 per cent (2007)

Health

Population using improved drinking-water sources (2004, total)	50.9 per cent
Population using improved drinking-water sources (2002/2003, urban)	90.1 per cent
Population using improved drinking-water sources (2004, rural)	57.3 per cent
Population using adequate sanitation facilities (2004, total)	55.8 per cent
Population using adequate sanitation facilities (2004, urban)	92.3 per cent
Population using adequate sanitation facilities (2004, rural)	48 per cent
Routine Expanded Programme on Immunisation (EPI) vaccines financed by government (2006, total)	1 per cent



Health	
Immunisation 2006; 1-year-old children immunised against tuberculosis (TB) – corresponding vaccines: Bacillus Calmette-Guérin (BCG)	94 per cent
Immunisation 2006; 1-year-old children immunised against diphtheria, pertussis and tetanus (DPT) – corresponding vaccines: DPT3	90 per cent
Immunisation 2006; 1-year-old children immunised against polio – corresponding vaccines: oral polio vaccine (OPV3)	90 per cent
Immunisation 2006; 1-year-old children immunised against measles – corresponding vaccines: measles-mumps-rubella (MMR)	78 per cent
Immunisation 2006; 1-year-old children immunised against hepatitis B – corresponding vaccines: HepB3	90 per cent
Immunisation 2006; per cent newborns protected against tetanus	76 per cent

Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)	
Estimated adult HIV prevalence rate (aged 15–49, end 2005)	23.2 per cent
Estimated number of people (all ages) living with HIV (thousands, 2005 estimate)	270,273
Mother-to-child transmission; estimated number of women living with HIV (thousands, aged 15+, 2005)	153,581
Mother-to-child transmission; HIV prevalence rate in young pregnant women in capital city (median, aged 15–49)	25.7 per cent
Prevention among young people: HIV prevalence among young people (aged 15–24, 2005)	
Male	6 per cent
Female	15.4 per cent
Prevention among young people: per cent who have comprehensive knowledge of HIV (2000–2006)	
Male	18.4 per cent
Female	25.8 per cent
Prevention among young people: per cent who used a condom during last high-risk sex (2000–2006)	
Male	47.6 per cent
Female	50.1 per cent



Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)

Children orphaned as a result of all causes [thousands, aged 0–17, 2004 data from the Joint United Nations Programme on HIV/AIDS (UNAIDS), 2005 estimate]	180,000
School attendance ratio of orphaned children (2000–2006)	1.0

DEMOGRAPHICS

Population data, 2007

Population (thousands, 2006, under 18)	1,146,936
Population (thousands, 2006, under 5)	297,079
Population annual growth rate (1986–1996)	3.3 per cent
Population annual growth rate (1996–2006)	1.2 per cent
Crude death rate (1986)	11.7 per cent
Crude death rate (1996)	12.8 per cent
Crude death rate (2006)	12.8 per cent
Crude birth rate (1986)	38
Crude birth rate (1996)	30
Crude birth rate (2006)	25.3
Life expectancy (1990)	59
Life expectancy (1995)	57
Life expectancy (2000)	49
Life expectancy (2006)	42.6
Total fertility rate (2006)	3.5
Population urbanised (2006)	23.8 per cent
Average annual growth rate of urban population (1986–1996)	3 per cent
Average annual growth rate of urban population (1996–2006)	7 per cent



Child protection

Child labour (5–14 years, 2004)	
Male	248,051
Female	529,428

Gender profile

Population	
Total (millions)	1,880,661
Female (per cent of total)	51.3 per cent
Enrolment and attendance ratios: females as a per cent of males, net primary school 2000–2006, enrolled	50:50
Enrolment and attendance ratios: females as a per cent of males, net secondary school 2000–2006, enrolled	56:44
Total fertility rate (births per woman)	3.5 per cent
Contraceptive prevalence (2004)	32.2 per cent
Antenatal care coverage (2000–2006)	90.4 per cent
Skilled attendant at delivery (2000–2006)	55.4 per cent
Maternal mortality ratio (deaths per 100,000 live births, 2005, adjusted)	762
Life expectancy at birth (years, 2000)	
Male	48.7 per cent
Female	56.3 per cent

Gender profile

Adult literacy rate (per cent of people aged 15+, 2007)	
Male	75.2 per cent
Female	94.6 per cent
Labour force participation rate (1999)	
Male	39 per cent
Female	61 per cent
Unemployment	
Total (per cent of total labour force)	31.1 per cent
Female (per cent of female labour force)	36.4 per cent



Female representation in politics

Position	Total	Females
Members of Parliament	120	30 (25 per cent)
Senators	33	5 (15 per cent)
Cabinet ministers	24	9 (37.5 per cent)
District council chairpersons	10	0 (0 per cent)
Municipal council mayors	1	1 (100 per cent)
Community council chairpersons	128	17 (13 per cent)
Community councillors	1,196	693 (58 per cent)



ACRONYMS AND ABBREVIATIONS

ACCA	Association of Chartered Certified Accountants
ACP-EU	Africa Caribbean Pacific–European Union
AfDB	African Development Bank
AGF	Africa Governance Forum
AGOA	African Growth and Opportunity Act
AIDS	Acquired Immune Deficiency Syndrome
ALE	Association of Lesotho Employers
AMCEN	African Ministerial Conference on the Environment
ANC	African National Congress
APR	African Peer Review
APRM	African Peer Review Mechanism
ART	antiretroviral therapy
AU	African Union
BCG	Bacillus Calmette-Guérin
BCP	Basutoland Congress Party
BEDCO	Basotho Enterprises Development Corporation
BLNS	Botswana, Lesotho, Namibia and Swaziland
BNP	Basotho National Party
BOS	Bureau of Statistics
CAADP	Comprehensive Africa Agricultural Development Programme
CAS	Centre for Accounting Studies
CBL	Central Bank of Lesotho
CBO	community-based organisation
CCA	Common Country Assessment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEO	chief executive officer
CET	Common External Tariff
CFR	Commander of the Order of the Federal Republic of Nigeria
CGM	China Garment Manufacturing
CHAL	Christian Health Association of Lesotho
CMA	Common Monetary Area



COMESA	Common Market for Eastern and Southern Africa
CONSAS	Constellation of Southern African States
CRASA	Communications Regulators' Association of Southern Africa
CRC	Convention on the Rights of the Child
CRM	Country Review Mission
CSAR	Country Self-Assessment Report
CSM	Country Support Mission
CSO	civil society organisation
CSR	corporate social responsibility
CSSDCA	Conference on Security, Stability, Development and Cooperation in Africa (African Union)
DCCS	Duty Credit Certificate Scheme
DCEO	Directorate on Corruption and Economic Offences
DDCC	District Development Coordinating Committee
DDPR	Directorate of Dispute Prevention and Resolution
DHS	demographic and health survey
DOD	debt outstanding disbursed
DPT	diphtheria, pertussis and tetanus
DPU	District Planning Unit
DRWS	Department of Rural Water Supply
ECOSOCC	Economic, Social and Cultural Council
ECSAFA	Eastern Central and Southern African Federation of Accountants
EIA	environmental impact assessment
EPI	Expanded Programme on Immunisation
ESAAMLG	Eastern and Southern African Anti Money Laundering Group
ESDP	Education Sector Development Programme
ESP	Enterprise Support Project
EU	European Union
FDI	foreign direct investment
FDTT	Fiscal Decentralisation Task Team
FIA	Financial Institutions Act
FISTC	Financial Institutions Supervision Technical Committee
FIU	Financial Intelligence Unit
FNB	First National Bank
FNCO	Food and Nutrition Coordinating Office



FOB	free on board
FPE	free primary education
FPTP	first past the post
GAAP	Generally Accepted Accounting Principles
GDP	gross domestic product
GEF	Global Environment Facility
GER	gross enrolment rates
GNI	gross national income
GNP	gross national product
GOLFIS	Government of Lesotho Financial Information System
GWh	gigawatt hours
HBS	household budget survey
HDI	Human Development Index
HIV	Human Immunodeficiency Virus
HSGIC	Heads of State and Government Implementation Committee
IAS	International Accounting Standards
IASB	International Accounting Standards Board
ICCPR	International Covenant on Civil and Political Rights
ICT	information and communication technology
IDP	internally displaced person
IEC	Independent Electoral Commission
IFAC	International Federation of Accountants
IFAD	International Fund for Agricultural Development
IFMIS	Integrated Financial Management Information System
IFRS	International Financial Reporting Standards
ILO	International Labour Organization
ILOLEX	International Labour Organization database of international labour standards
IMF	International Monetary Fund
IPSAS	International Public Sector Accounting Standards
ISAC	International Accounting Standards Committee
ISAS	Institute of Southern African Studies
kWh	kilowatt hours
KYC	Know Your Customer
KYS	Know Your Status
LADB	Lesotho Agricultural Development Bank



LCCI	Lesotho Chamber of Commerce and Industry
LCD	Lesotho Congress for Democracy
LDF	Lesotho Defence Force
LEAP	Lesotho Enterprise Assistance Programme
LEC	Lesotho Electricity Company
LFCDC	Lesotho Fund for Community Development
LGFB	Local Government Finance Board
LGSC	Local Government Service Commission
LHDA	Lesotho Highlands Development Authority
LHLDC	Lesotho Housing and Land Development Corporation
LHWP	Lesotho Highlands Water Project
LIA	Lesotho Institute of Accountants
LIPAM	Lesotho Institute of Public Administration and Management
LIRAC	Lesotho Inter-Religious AIDS Consortium
LLA	Lesotho Liberation Army
LNDC	Lesotho National Development Corporation
LPC	Lesotho People's Congress
LPF	Lesotho Paramilitary Force
LPG	liquefied petroleum gas
LRA	Lesotho Revenue Authority
LREBRE	Lesotho Renewable Energy-Based Rural Electrification
LTA	Lesotho Telecommunications Authority
M	Maloti
MCA	Millennium Challenge Account
MCB	Mohloli Chamber of Business
MCC	Millennium Challenge Corporation
MDG	Millennium Development Goal
MDTP	Maloti Drakensberg Transfrontier Project
MEPTC	Monetary and Exchange Policy Technical Committee
MFA	Multi-Fibre Agreement
MFP	Marematlou Freedom Party
MGYSR	Ministry of Gender and Youth, Sport and Recreation
MMP	Mixed Member Proportional
MMR	measles-mumps-rubella
MoAFS	Ministry of Agriculture and Food Security



MoET	Ministry of Education and Training
MoFDP	Ministry of Finance and Development Planning
MoHSW	Ministry of Health and Social Welfare
MoLG	Ministry of Local Government and Chieftainship
MoU	Memorandum of Understanding
MP	Member of Parliament
MPC	Monetary Policy Committee
MTEF	Medium-Term Expenditure Framework
MTFF	Medium-Term Fiscal Framework
MTICM	Ministry of Trade and Industry, Cooperatives and Marketing
MTP	Marematlou Party
MWh	megawatt hours
NAC	National AIDS Commission
NAFTA	North American Free Trade Agreement
NDSO	National Drug Service Organisation
NEAP	National Environmental Action Plan
NEPAD	New Partnership for Africa's Development
NER	net enrolment rates
NES	National Environmental Secretariat
NGC	National Governing Council
NGO	nongovernmental organisation
NHDR	National Human Development Report
NID	National Immunisation Day
NIP	National Independence Party
NPoA	National Programme of Action
NSS	National Security Service
NUL	National University of Lesotho
NUL/ISAS– LIPAM Consortium	National University of Lesotho/Institute of Southern African Studies- Lesotho Institute of Public Administration and Management Consortium
OAG	Office of the Auditor General
OAU	Organisation of African Unity
OECD	Organisation for Economic Co-operation and Development
OPV3	oral polio vaccine
OSHA	Occupational Safety and Health Administration



OSS	One-Stop Shop
OVC	orphans and vulnerable children
PAC	Public Accounts Committee
PAP	Pan-African Parliament
PCEO	Prevention of Corruption and Economic Offences
PEMFAR	Public Expenditure Management and Financial Accountability Review
PEP	postexposure prophylaxis
PMU	Police Mobile Unit
PPP	public-private partnership
PR	proportional representation
PRC	Parliamentary Reform Committee
PRS	Poverty Reduction Strategy
PRSP	Poverty Reduction Strategy Paper
PSC	Public Service Commission
PSCP	Private Sector Competitiveness Project
PSIRP	Public Sector Improvement and Reform Programme
PV	Photovoltaic
RBA	Regional Bureau for Africa (UNDP)
RFP	Rural Finance Project
RLDF	Royal Lesotho Defence Force
SAAP	South African Power Pool
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAFLII	Southern African Legal Information Institute
SAP	Structural Adjustment Programme
SME	small and medium enterprise
SMME	small, medium and microenterprise
SOE	state-owned enterprise
TB	tuberculosis
TEBA	Employment Bureau of Africa
TRI	Technical Research Institute
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa



UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
US	United States
USA	United States of America
USD	United States dollar
VAT	value-added tax
VIP	ventilated improved pit
WASA	Water and Sewerage Authority
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WSIS	World Summit on the Information Society
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization



EXECUTIVE SUMMARY

1. Origin and purpose of the African Peer Review Mechanism

- 1.1 In recognition of the imperatives of good governance for development, the Sixth Summit of the Heads of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development (NEPAD), held in March 2003 in Abuja, Nigeria, adopted the Memorandum of Understanding (MoU) on the African Peer Review Mechanism (APRM). The APRM, which is turning out to be the most innovative aspect of NEPAD, is an instrument voluntarily acceded to by member states of the African Union (AU) as a self-monitoring initiative for good governance. The African Peer Review (APR) process entails periodic reviews of the policies and practices of participating states to ascertain progress being made towards achieving mutually agreed goals and compliance with agreed political, economic and corporate governance values, codes and standards as outlined in the Declaration on Democracy, Political, Economic and Corporate Governance.
- 1.2 In order to ensure the professionalism and integrity of the whole process, a Panel of Eminent Persons (or the APR Panel) has been set up. Deliberately drawn from all the five subregions of Africa, the APR Panel currently comprises the following persons: Professor Adebayo Adedeji from Nigeria; Ambassador Bethuel Kiplagat from Kenya; Mrs Graça Machel from Mozambique; Professor Mohammed Seghir Babès from Algeria; Mrs Domitila Mukantagazwa from Rwanda; and Professor Dorothy Njeuma from Cameroon.
- 1.3 Twenty-nine out of 53 AU member states had signed up for the APRM by April 2009. Participating countries include Algeria, Angola, Benin, Burkina Faso, Cameroon, the Republic of Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritania³, Mauritius, Mozambique, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda and Zambia. The APR Panel has launched reviews in 16 countries. Eleven of these countries have received review missions. The next countries in line for peer review are Mali, Mozambique and Lesotho.

2. Implementation of the APRM in Lesotho

- 2.1 Lesotho acceded to the APRM in July 2004 at the AU Summit held in Addis Ababa, Ethiopia. The national process started with a national consultative workshop at the Manthabiseng National Convention Centre in Maseru in October 2005. A ministerial subcommittee was set up and a Country APR Focal Point was established within the Ministry of Foreign Affairs and International Relations. A broad-based and all-inclusive APRM National Governing Council (NGC) was set up and mandated to manage the APRM process in the country.

³ Participation suspended after a military coup.



- 2.2 The Country Support Mission (CSM) to formally launch the review process in Lesotho was fielded from 13 to 16 November 2006 under the leadership of Dr CL Stals, former member of the APR Panel.
- 2.3 The self-assessment process was conducted by a consortium of local Technical Research Institutes (TRIs), namely the Institute of Southern African Studies (ISAS) of the National University of Lesotho (NUL) and the Lesotho Institute of Public Administration and Management (LIPAM) in the Ministry of Public Service. Lesotho submitted its self-assessment report and programme of action in November 2008, paving the way for the fielding of the Country Review Mission (CRM).
- 2.4 The CRM was fielded from 23 March to 9 April 2009 and comprised 14 members representing at least 10 African nationalities. The mission was led by Professor Adebayo Adedeji, chairperson of the APR Panel. Dr Chris Stals, who formerly led the process for the country, joined the mission as a high-level resource person.
- 2.5 The CRM formally began on 24 March 2009 with a launch attended by His Excellency, the Right Honourable Pakalitha Bethuel Mosisili, prime minister of the Kingdom of Lesotho. The mission subsequently paid a courtesy call on His Majesty King Letsie III.
- 2.6 In the capital city and seat of government, Maseru, the mission interacted with three arms of government: the executive, the judiciary and the legislature. The mission also held discussions with various nonstate stakeholder groups and met with institutions with a bearing on governance such as the auditor general, the Central Bank of Lesotho (CBL) and the Independent Electoral Commission (IEC).
- 2.7 As is mandated in the APRM guidelines, and in order to garner perspectives from the grass roots, the CRM undertook visits to five of the 10 districts in Lesotho, namely Butha-Buthe, Leribe, Mochale's Hoek, Thaba-Tseka and Quthing.
- 2.8 The mission was concluded following wrap-up sessions with the Cabinet and the NGC in Maseru.

3. Country background

- 3.1 Lesotho was established by King Moshoeshoe I about 200 years ago. It is one of the few constitutional monarchies in the world and unique in Africa in this respect. The inhabitants of the country are quite homogeneous in ethnic-linguistic composition, and the major religion is Christianity.
- 3.2 Lesotho is one of the smallest countries in Africa, with a population of 1.88 million (2006) and a total area of 30,355 square kilometres. The country is predominantly a rural economy with 76 per cent of the people dwelling in the rural areas. Poverty is widespread, with about 56.7 per cent of the population living below the poverty line.⁴ Lesotho ranks 138 out of 177 countries (2007) in

⁴ United Nations Development Programme (UNDP) (2008) Lesotho: Millennium Development Goals Status Report.



terms of the Human Development Index (HDI).⁵ Life expectancy, which in 1990 stood at 59 years, has declined and is estimated at 42.4 years (2006).⁶ The declining population growth rate, coupled with the high prevalence of the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) (23.2 per cent), means that Lesotho's limited human resources are steadily being depleted.

- 3.3 Lesotho has very limited natural resource endowments, including agricultural and grazing land, but is richly endowed with water and, to a lesser extent, diamonds and other minerals. Water is its most significant natural resource. It is being exploited through the multibillion dollar Lesotho Highlands Water Project (LHWP).
- 3.4 Lesotho, Swaziland, Namibia and South Africa also form a common currency and exchange control area known as the Common Monetary Area (CMA). Receipts from the Southern African Customs Union (SACU) provide much of Lesotho's income. Lesotho has taken advantage of the African Growth and Opportunity Act (AGOA). Under this arrangement, Lesotho's textiles are allowed unfettered access into the United States (US) market. The current financial crisis is bound to affect the country in terms of reduced foreign direct investment (FDI) and preferential trade quotas, as well as the retrenchment of workers from mines in South Africa.
- 3.5 Since independence from Britain in 1966, the political history of Lesotho has been dominated by instability, controversy and conflict, sometimes spilling over into violence. This dynamic has included three coups d'état (in 1970, 1986 and 1994) and 23 years of undemocratic government (including seven years of military rule). Since the return to multiparty democracy in 1993, the country has undergone four elections at five-year intervals, namely in 1993, 1998, 2002 and 2007.

4. Summary of findings in key thematic areas

4.1 Democracy and good political governance

- 4.1 The constitution of Lesotho of 1993 institutionalised the constitutional monarchy, which was a reaffirmation of the traditional system of governance that is highly revered and is based on Basotho historical values and customs. The constitution also meant that the Basotho recognise and accept that their traditional form of governance must coexist with the colonially bequeathed system of governance. Under this constitution, the king is the head of state, whereas the prime minister is the head of government. The king's position is hereditary and accession to the throne is regulated by the Office of the King Order No. 14 of 1990. The prime minister is appointed by the king in terms of section 87, subsection 2, of the constitution.
- 4.2 The legislature is composed of two houses, the National Assembly, which has 80 elected members and 40 proportional representatives (making for a total of 120), and the Senate, which is composed of 33 members, 22 of whom are hereditary principal chiefs, with the other 11 being appointed by

⁵ Country Self-Assessment Report (CSAR) (2008).

⁶ World Bank (2009) Millennium Development Goals: Lesotho; World Development Indicators.



the king on the advice of the Council of State. The Council of State is composed of the top state officials from the executive, legislative and judicial branches of the state, a principal chief, as well as four nonstate stakeholders appointed by virtue of their skills and expertise. Its role is to advise and assist the king in the discharge of his functions.

- 4.3 The judiciary is headed by the chief justice, and consists of the Court of Appeal, the High Court, magistrates' courts and local courts. There is a dual legal system in which the above-named courts use common law, whereas the traditional courts of the chiefs use customary law.
- 4.4 Lesotho has signed numerous international agreements, including the Charter of the United Nations (UN), the Constitutive Act of the AU, the NEPAD Framework Document, and the Southern African Development Community (SADC) Treaty. In addition, the country has signed other international agreements relating to the following: the recognition and protection of civil, political and cultural rights; human rights (women, children, racial discrimination, the status of refugees, labour, education, etc.); freedom of political association; war and conflict; crime; corruption; and human trafficking. However, Lesotho lags behind in the ratification, domestication and implementation of, and reporting on, the various agreements. The CRM was unable to obtain an updated register of the agreements and the status of their application.
- 4.5 Lesotho has taken important steps to resolve internal political conflicts through consultation and dialogue that culminated in the reform of the electoral system. The introduction of the Mixed Member Proportional (MMP) electoral system in 2002 is largely credited with enhancing open dialogue, achieving a more inclusive and broader political representation in the National Assembly, and generally bringing about the relative peace that has prevailed over the last few years. However, there is strong sentiment that there needs to be institutionalisation of local mechanisms as well as capacity development for dispute mediation and conflict resolution, which should involve the IEC and political parties, the churches, traditional leaders, and local nonstate actors.
- 4.6 Institutional conflicts involving the different state structures have been addressed through security sector reforms that involved the establishment of civil control of the military and the police, in line with the re-establishment of a democratic order in 1993. The reforms carried out from 1996 sought to clarify the command, control and administration functions of the military and introduced a process of depoliticisation and professionalisation of the Lesotho Defence Force (LDF). Similar reform measures aimed at improving the organisation, administration and discipline of the police service have also been introduced.
- 4.7 The Basotho generally perceive that there is constitutional rule in as far as their institutional arrangements and practices are guided by the 1993 constitution of Lesotho. However, the concept of the separation of powers is interpreted differently from the classic Western definition of the term because of the centrality of the king in the governance of the country. As a traditional leader, the king is central to the governance of the nation state. The monarch is regarded as the unifier of the Basotho nation.
- 4.8 The reality is that Lesotho has expressed political commitment by signing various covenants associated with the promotion and protection of human rights and liberties. However, the shortcomings in the processes of ratification, domestication and implementation mean that women,



men, children, the youth, workers, the disabled, and other vulnerable people are not able to fully enjoy the rights that are supposed to be guaranteed under these agreements. Although human capacity constraints and financial and institutional constraints have often been blamed for this poor state of implementation, the good political and policy intentions appear to be unattainable.

- 4.9 There have been encouraging gains in the spheres of democratic and political governance, which include the consolidation of a constitutional monarchy, re-establishment of civil control over the military and police, electoral reforms, peaceful resolution of political disagreements, and the setting up of democracy-enforcing institutions such as the IEC, the ombudsman, the Directorate on Corruption and Economic Offences (DCEO), the Police Complaints Authority, etc. Nevertheless, Lesotho is still confronted with complex challenges.
- 4.10 First, there is the lingering threat of internal political conflict that might be fuelled by intraparty and interparty tensions that could distract government from normal operations. Secondly, there is a dominant executive branch of government, which is insufficiently countervailed by a weak Parliament and is not sufficiently held accountable by oversight institutions that are subordinated to it. Thirdly, the public service lacks capacity, is unable to deliver public services efficiently and is largely unaccountable. Decentralisation is incomplete, suffers from capacity constraints and is characterised by debilitating tensions between the newly established councils and traditional authorities. Public accountability, which is problematic, is accompanied by cronyism and corruption. Meanwhile, the anticorruption mechanisms are weak and ineffectual. The lack of accountability is amplified by Lesotho's inability to ratify, domesticate, implement and report on the various international agreements, standards and codes that it has signed. This is coupled with backlogs in the passing of bills to reform the judiciary, and the fact that public policies are adopted but not necessarily implemented. All these factors make it appear as though Lesotho fails to honour its commitments.
- 4.11 Other challenges emanate from the peculiar geographic and economic situation of Lesotho. It is an enclave economy highly dependent on foreign aid. The small, externally dependent economy faces the risk of having its democracy and political governance agenda determined by powerful external forces. Therefore, questions arise regarding the extent to which Lesotho can determine and own its national policies and political practices, and whether the country can resolve the problems of poverty, unemployment, and HIV and AIDS in order to foster development. However, the CRM acknowledges the political will and the trust of the Basotho to surmount obstacles in their way and develop as a united and prosperous nation.
- 4.12 The APR Panel recommends that Lesotho: subject international agreements to parliamentary scrutiny and discussion before accession, and make concerted efforts to ratify and domesticate into national law the provisions of the international treaties, conventions and covenants; develop a comprehensive national peace architecture that includes structures and institutions for managing national-, district- and community-level conflicts; strengthen the capacities of the IEC and political parties for managing conflicts by developing strategies and mechanisms for interparty dialogue; enhance constitutional democracy and the separation of powers by reiterating the operational independence of the various governance institutions; reform the Council of State to reflect the composition and dynamics of Lesotho by including civil society representatives; strengthen the



judiciary by increasing the number of judges and support staff; enact all outstanding bills; review the decentralisation process with the objective of identifying measures that could expedite its institutionalisation and provide certainty with regard to its direction; and improve the promotion and protection of human rights and liberties by setting up a human rights commission and by increasing awareness of human rights issues through public education and information dissemination.

4.2 Economic governance and management

- 4.13 Economic policy making in Lesotho has historically been influenced in the main by geography, regional integration arrangements and special trade arrangements. In view of the overwhelming impact of these factors, successive governments in Lesotho appeared (until recently) to have little incentive to design and implement comprehensive, long-term economic development strategies to address the key constraints to sustainable growth and development in the country.
- 4.14 Lesotho is mainly a mountain country with arable land estimated at only 9 per cent of its total area of 30,335 square kilometres. Yet, agriculture provides employment and income for the majority of the population of the country.
- 4.15 Lesotho is a landlocked country that is entirely surrounded by one country – South Africa. Thus, even in the absence of any formal arrangements, Lesotho's development strategies, and investment and trade policies, have been closely influenced by those of South Africa. This provides a strong justification for the country to engage in regional integration arrangements. In addition to membership of the SADC, Lesotho is a signatory to the SACU and the CMA, which comprises South Africa, Lesotho, Namibia and Swaziland. SACU arrangements provide for the sharing of customs revenue among member countries according to an agreed formula. SACU revenue accounted annually for over 50 per cent of public revenue in Lesotho during the period from 2002 to 2008 and is therefore a major determinant of both public expenditure and national income.
- 4.16 According to the CMA arrangement, the South African Reserve Bank determines the exchange rate of the rand and the loti is kept at par with the rand, which is also legal tender in Lesotho. The CMA also allows for unrestricted movement of capital across member states. This reduces transaction costs and foreign exchange risk with regard to trade between Lesotho and South Africa, decreases exchange rate volatility by pegging the domestic currency to a relatively stable currency, and encourages fiscal discipline and improved reserve management in Lesotho. Thus, interest rate and inflation dynamics in Lesotho and South Africa are closely related. However, the institutional arrangements of the CMA do not permit the pursuit of an independent exchange rate policy by Lesotho. The role of monetary policy is confined to the maintenance of price stability and adequate international reserves to support the rand/loti exchange rate. The CBL also uses open-market operations to control domestic liquidity through the sale and purchase of treasury bills.
- 4.17 Other external arrangements impacting on economic governance and management in Lesotho include the Multi-Fibre Agreement (MFA) and the AGOA.
- 4.18 Despite its physical constraints and the limitations on its scope for independent economic policies, Lesotho's policy framework and development strategies that are conducted in the context of these



arrangements have been generally successful in maintaining macroeconomic stability, promoting economic growth and creating jobs as a step towards poverty reduction. Real gross domestic product (GDP) per capita grew at an average annual rate of 3.86 per cent between 1990 and 2006. At the same time, the macroeconomic framework has helped Lesotho to control inflation and keep it at a low, single-digit rate over most of the last decade. Moreover, the country has maintained fiscal and account surpluses since about 2004.

- 4.19 Lesotho has implemented various financial sector reforms and measures to remove structural rigidities in the financial sector and increase bank lending to the private sector. These include the establishment of a commercial court, the promulgation of the Financial Institutions Act (FIA) and the Central Bank Act, restructuring of the former Lesotho Bank, and the establishment of the Lesotho National Development Corporation (LNDC) and the Basotho Enterprises Development Corporation (BEDCO). Yet, access to credit remains limited, especially in rural areas and for indigenous enterprises, and financial intermediation is low. All the major commercial banks in Lesotho are affiliated to parent banks in South Africa. Because of risk and return considerations, commercial banks prefer to invest more in treasury bills than in lending to private investors.
- 4.20 Over the years, Lesotho has relied excessively on SACU receipts as the major source of revenue, since the contribution of domestic revenue remains low. The public budget is characterised by high dependence on aid and SACU revenue and low implementation rates, especially in relation to capital expenditure. High budget surpluses recorded between 2003 and 2008 were merely a reflection of the inability to implement projects according to plans. Accordingly, actual public expenditure is often skewed towards current expenditure items, and delays in project implementation mean that infrastructure deficits continue to constrain opportunities for investment and efficient service delivery. From year to year, underspending of the budget is usually reported by government departments. This tends to give the impression of fiscal prudence, but, in reality, it is nothing more than limited capacity on the part of these departments to implement their budget proposals.
- 4.21 Regional integration arrangements imply that both producers and workers in Lesotho have unrestricted access to the large South African product and labour markets. The number of Basotho working in the mining sector in South Africa was 127,000 in 1990 and 50,100 in 2007. These workers transfer over 70 per cent of their annual earnings (estimated at M3.5 million in 2007) to Lesotho, mainly to support their families. South African firms and banks are a major source of investment and capital, as well as employment within Lesotho. Workers' remittances are currently on the decline as a result of lay-offs of Basotho miners in South Africa. This is further aggravating an already critical unemployment situation. The unemployment rate remains critically high at around 30 per cent, while poverty remains high at the estimated rate of 56.7 per cent in 2007.
- 4.22 The policy framework in Lesotho is built on some key pillars. These are the framework of the Millennium Development Goals (MDGs), the Poverty Reduction Strategy Paper (PRSP), Vision 2020 and the new growth strategy. Their combination provides a framework for planning, accelerated and sustained growth, private sector development and poverty reduction. Recently, the government put in place the Medium-Term Expenditure Framework (MTEF) as a means of improving the links between budget processes and the overall development strategies such as the PRSP and MDGs. The MTEF was implemented in some line ministries in the preparation of the 2005/2006 budget.



- 4.23 In order to develop an institutional framework conducive to accelerated growth and improved service delivery, Lesotho has promulgated the Local Government Act and regulations and conducted local council elections in 2005. However, local government structures remain highly dependent on the central government. They have consolidated budgets and development plans and government has not yet harmonised laws and regulations to enable them to undertake their revenue-collection functions.
- 4.24 Although Lesotho has adopted many policies and institutional reforms in order to improve the transparency, predictability and credibility of economic policies, significant implementation gaps persist. Such gaps are noticeable in service delivery and budget implementation. Human and institutional capacity limitations are largely responsible for these gaps. The budget-preparation process is an exclusive prerogative of the government. Stakeholder participation takes place only after ratification of the process by Parliament.
- 4.25 Lesotho has enacted several institutional reforms to improve public sector management. Public finance management and accountability often fail to adhere to institutional requirements. Ministries are often unable to submit timely accounts for auditing and there are concerns regarding the lack of political will on the part of Parliament and the government to compel them to meet their legal obligations.
- 4.26 Similarly, the country has adopted numerous acts and statutes and has set up institutions such as the Public Accounts Committee (PAC), the DCEO and the Office of the Auditor General (OAG) to combat corruption and money laundering. But, the biggest challenges lie in the slow implementation of these acts. There are serious institutional challenges regarding the fight against corruption, including weak enforcement, a shortage of staff and the limited resources of anticorruption bodies. Indeed, inadequate human capacity appears to be a factor that constrains efficiency across these bodies.
- 4.27 While Lesotho's current institutional integration arrangements limit the scope for an independent economic policy, they confer significant benefits on Lesotho. The arrangements facilitate trade, investment and cross-border activities such as tourism. In addition to the annual receipt of more than 50 per cent of its public revenue from the SACU pool, Lesotho receives between 40 and 60 million rand per annum in compensation for the rand circulating in the country.
- 4.28 The regional integration arrangement is undoubtedly the most optimal for Lesotho in the light of its size and its geographical location inside South Africa. The challenge to Lesotho is to design and implement appropriate policy to enable it to participate more meaningfully in economic integration arrangements and to widen its market base. In addition to pursuing preferential trade arrangements, finding a niche and increasing competition are the key to progress in this regard.
- 4.29 The APR Panel recommends that Lesotho improve on the collection and compilation of timely and consistent data that conforms to international standards. The country should also continue its efforts in such areas as: policy formulation and implementation; domestic resource mobilisation and the better utilisation of revenue; improving the investment environment in order to attract domestic and foreign investment; building capacity for improved public sector management; implementing decentralisation; strengthening institutions to combat corruption and money laundering; and



promoting strategies to maximise the benefits from regional integration and mitigate its negative impact of external shocks on the domestic economy.

4.3 Corporate governance

- 4.30 Lesotho subscribes to the eight international and regional standards and codes for corporate governance assessment, but there is lack of progress in implementation. There is no national corporate governance code. A few institutions are active in promoting corporate governance, notably the CBL and the Lesotho Institute of Accountants (LIA), but, on the whole, the level of awareness regarding matters of corporate governance and corporate social responsibility (CSR) is low.
- 4.31 The business environment in Lesotho is characterised by private sector and parastatal organisations. The private sector is distributed across transport, manufacturing, mining, banking and financial services, as well as the supply of goods and services. Lesotho's enterprises profile is as follows: micro (65 per cent), small (20 per cent), medium (12 per cent) and large (3 per cent). Of these enterprises, 75 per cent were in services, 24 per cent in manufacturing and 1 per cent in primary industry. In 2006, enterprise ownership was reported as the Basotho owning 69.4 per cent, with Asians owning 16.5 per cent, South Africans 5.9 per cent and others 8.2 per cent.
- 4.32 The legal and regulatory framework governing business activity includes the following statutes: the Trading Enterprises Order (1993); the Trading Enterprises Regulation (1999); the FIA (1999); the Money Lenders Order (1989); the Companies Act (1967, as amended in 1984 & 1989); the Partnership Proclamation (1957); and the Insolvency Proclamation (1957). The tax regime is regulated by three pieces of legislation, namely the Customs and Excise Act (1982), the Income Tax Act (1993) and the Value-Added Tax (VAT) Act of 2001. The effectiveness of the above statutes is hampered by the antiquity of most of the laws. Commendably, a number of laws are currently undergoing revision, including the Companies Act of 1967, the Accountants Act and the Insurance Act. Several other pieces of legislation relevant to business, such as creditors and competition legislation, are also being enacted. On the whole, however, the legislative process is inordinately long, in part due to capacity constraints and institutional inertia. For instance, the review of the Companies Act and the Land Act has taken over five years.
- 4.33 Other constraints to an enabling business environment include inadequate infrastructure and human-capital development, weak development management capacity, the impact of HIV and AIDS, as well as institutional weaknesses, including weak property rights, delays in commercial dispute resolution and inadequate access to finance.
- 4.34 The constitution of Lesotho, in section 36, mandates the country to protect the environment, and the country subscribes to international environmental conventions, including the 1992 UN Rio Declaration. Nonetheless, Lesotho still faces environmental challenges such as pollution, the expansion of urban settlements, uncontrolled mining and poor waste management.
- 4.35 Labour standards in Lesotho are generally considered to be relatively good. This is attributable to individual and collective efforts by the government, trade unions and international buyers such



as the nongovernmental organisation (NGO), Dutch Clean Clothes Campaign. Although the labour law regime in Lesotho is very robust, there is a need to step up enforcement. Stakeholders singled out textile and garment factories where safe working conditions are not always maintained. Additionally, an extremely high HIV and AIDS infection rate among garment workers has led to conflicts over benefits such as sick and funeral leave.

- 4.36 Corporations such as the Lesotho Highlands Development Authority (LHDA) have in place social responsibility programmes such as environmental impact assessments (EIAs) to mitigate the effect of projects on people and the environment, as well as development programmes to assist communities with income-generating projects. The textile and business chambers, through HIV and AIDS initiatives, address prevention and the care and treatment of workers and their families. Nonetheless, CSR is still widely viewed as philanthropic and not structured enough to confront the social challenges facing the country.
- 4.37 In terms of public-private partnerships (PPPs), this is still a nascent terrain. Nonetheless, the minister of finance, in his budget speech of 2009/2010, articulated the intention of the government of Lesotho to lay out a clear framework for the use of PPPs to finance and operate public infrastructure projects for the purpose of delivering public services. Although relations between the private sector and the government have improved over the years, according to the Lesotho Chamber of Commerce and Industry (LCCI) and the Mohloli Chamber of Business (MCB), the private sector is of the view that it does not have the requisite consultative forums to influence government decisions.
- 4.38 The celebrated LHWP that involved both local and international actors focused global attention on the country's efforts in tackling corruption. Lesotho enacted the Prevention of Corruption and Economic Offences (PCEO) Act (1999), administered by the DCEO. Legislation relating to money laundering is in place. An Office of the Ombudsman was established in 1996. Despite the existence of these measures and institutions, perceptions are that corruption is still a problem in Lesotho and is on the increase.
- 4.39 In relation to the treatment by corporations of stakeholders, the report highlights the inadequacies of the antiquated Companies Act, as a result of which the Act is unable to provide up-to-date and wide-ranging protection of shareholder rights. Competition rights, consumer protection rights, and intellectual property and creditor rights either have weak and antiquated legal frameworks or are not provided for by any statute.
- 4.40 Accountability of corporations, directors and officers is weak owing to inadequate legal and regulatory frameworks and enforcement agencies. According to the auditor general's report, many government ministries were not up to date with their accounts and some, including state-owned enterprises (SOEs), maintained incomplete accounting records; hence the issuing of qualified audit reports. Although there are marked improvements in the appointment of board directors, stakeholders reported that more still needs to be done to ensure that directors are appointed timeously and on merit.
- 4.41 Findings by the CRM revealed institutional inertia across all five of the objectives, including standards and codes. A trend identified by the CRM was that of many initiatives being launched,



but never being completed. The legislative framework and the protracted process of revising laws have already been alluded to. The setting up of a national, corporate governance regulatory body has been over five years in the making. The process of setting up a commercial court, though it came to fruition, also took too long and is still at best a work in progress. This is also the prevailing situation with regard to operationalising the One-Stop Shop (OSS), whose roll-out is deemed to be too slow.

- 4.42 The APR Panel recommends that the government of Lesotho finalise and enact several pending pieces of legislation relevant to the promotion of good corporate governance, such as the Companies Act. Efforts must also be made to develop a national code of corporate governance and to conclude the establishment of a body responsible for the promotion of good corporate governance in the country. Above all, awareness-raising and information dissemination regarding corporate governance and CSR are needed. The private sector could play a greater role in this regard.

4.4 Socioeconomic development

- 4.43 Lesotho is predominantly a rural economy, with 76 per cent of its population dwelling in the rural areas. The country has very limited natural resource endowments, including agricultural and grazing land, but is richly endowed with water and, to a lesser extent, diamonds and other minerals. Arable land is limited, as the country is mostly mountainous or uncultivable. Poverty in Lesotho is widespread, with about 56.7 per cent of the population living under the poverty line. Life expectancy is estimated at 42 years. Additionally, the declining population growth rate, coupled with the high prevalence of HIV and AIDS (23.2 per cent or 270,000 adults), means that Lesotho's limited human resources are steadily being depleted.
- 4.44 Through various national programmes and strategies, the government of Lesotho has, over the years, committed itself to improving the standards of living of its people and the welfare of Basotho society, as well as targeting a fairer distribution of wealth and development gains for its people. Vision 2020, adopted in 2005, underscored the government's resolve to achieve a number of national objectives, as well as provide a framework for articulating various strategies and programmes to underpin this collective perspective. Nonetheless, Lesotho is constrained by the restrictive geographical, economic and human resources environment it finds itself in. The country is totally surrounded by South Africa, its main trading partner. The country relies heavily on its share of SACU revenues and the remittances of the Basotho labour force employed in South Africa. A significant proportion of fixed capital formation is either foreign-owned or financed from external loans and grants. The government's thrust is to strengthen the export sector within the SACU and SADC and beyond into the US market through AGOA arrangements. This has helped to broaden the external economic environment of the country. Further, penetration of Lesotho's exports into world markets will depend on the competitiveness of the country's products.
- 4.45 The country's efforts to achieve self-reliance and sustained development, attain the MDG targets and objectives, improve capacity for basic services, and diversify and raise the standard of living of the people in general are to a large extent conditioned by the above-mentioned factors. Lesotho



achieved some measure of self-reliance in terms of maintaining relatively low rates of public expenditure, of maintaining a small percentage of external financing of total government spending, and of gaining from remittances from Basotho workers in South Africa, from SACU revenues and from FDI flows. However, there are critical areas where progress was seen as fairly limited. Food insecurity, for example, is chronic and the country currently imports about 70 per cent of its food needs. The economy is not diversified, even with the recent growth in the manufacturing sector. The agricultural sector, itself heavily characterised by low-productivity smallholder cultivation, is suffering from heavy soil degradation. The recent policy of developing block farming may help bring about a breakthrough in food production and may encourage the development of agro-industries. Economic diversification would also require the utilisation of areas where Lesotho has natural comparative advantage, such as tourism and water.

- 4.46 The government's commitment to achieving development goals is incorporated in the constitution, Vision 2020, the Poverty Reduction Strategy (PRS) and other sectoral strategies and programmes. The government has also signed and ratified all the codes and standards within the APRM framework for socioeconomic development. However, compliance with several of the standards and codes is mixed. Nonetheless, there are visible achievements in the promotion of social welfare, which include, among other successes, the establishment of the old age pension for senior citizens who are 75 years or older. The initiative is historically the second of its type in sub-Saharan Africa.
- 4.47 Widespread poverty and high income inequality in the country suggest that a large segment of society cannot achieve individual or collective self-reliance. About 56.6 per cent of the population is classified as poor. Poverty is widespread in rural as well as urban centres and is compounded by high unemployment rates, which have been amplified by the extensive retrenchments of Basotho mine workers in South Africa. There seems to be no reliable mechanism in place to absorb these returnees productively. However, the government has a few initiatives in place to train the youth and the disabled in particular to help them establish their own businesses by improving their skills in basic areas. All these efforts notwithstanding, the nexus of low productivity, poverty and unemployment could be effectively addressed only through the diversification, modernisation and engendering of a drastic transformation of the economy of Lesotho.
- 4.48 Lesotho has made some efforts to achieve the MDG targets and objectives. There have been notable successes. Significant progress has been made in terms of universal education (primary completion rates, etc.), gender equality and environmental sustainability. However, the country is seriously lagging behind in terms of indicators pertaining to poverty, child mortality and tuberculosis (TB). The HIV and AIDS pandemic constitutes the most important and devastating constraint on the country's development and its future. Lesotho recorded the third-highest HIV and AIDS prevalence rate, ranging between 28.9 per cent and 31.7 per cent, coming after Botswana and Swaziland. HIV and AIDS is disproportionately concentrated in urban areas. The government's response through a National HIV and AIDS Strategic Plan has been effective and is widely acknowledged by stakeholders. The health indicators are also worrisome, particularly in the areas of under-5 mortality and maternal mortality.
- 4.49 There have been laudable successes in the areas of primary education, but far less so at the preschool, secondary and tertiary levels. Total net enrolment rates for the primary education level



were about 72 per cent in 2006. Enrolment for girls is generally higher than for boys at all levels, except at the primary level, where gender parity has been reached. The government introduced free primary education (FPE) in 1999, and started implementing the policy in 2000 by gradually abolishing school fees. More than one million textbooks and other teaching materials were supplied free of charge to schools. The annual budgetary allocations for education were also progressively raised, from 18 per cent in 2003/2004 to 26 per cent in 2007/2008. To provide incentives for increased enrolment, primary school children were provided with free meals. Lesotho is heading towards making primary education compulsory.

- 4.50 There has been progress in the provision of drinking water. About 74 per cent of the population has access to safe water through a variety of water supply methods, including standpoints. Sanitation is lagging behind, especially among poorer communities. The country also has a low level of access to energy, particularly electricity, although it is endowed with both renewable and nonrenewable energy resources. The ability of the country to meet its electricity supply requirements has been declining and Lesotho is currently making good its shortfalls with electricity from Mozambique and South Africa. A National Electrification Programme, covering the next 15 years, is expected to result in a substantial increase in electricity supply. Another boost to the infrastructure of the country is the development of the Information and Communication Strategy. The new information and communication technology (ICT) policy is expected to provide a framework for stimulating the development of advanced infrastructure in order to help create a better enabling environment for the private sector and FDI.
- 4.51 Efforts made to attain gender equality are highly remarkable in Lesotho. The enactment of the Land Act (1979) has enabled women and allowed them to have equitable access to land. Generally, there is a strong political will to promote gender equality in Lesotho. The government must be credited with the appointment of nine females in the Cabinet, which equates to a 38 per cent representation. Women are also well represented in district and local councils. Women actually made up about 58 per cent of the councillors elected to local councils in 2005.
- 4.52 Participation of stakeholders in the development process, while strongly emphasised by the government, and advocated widely by the communities and NGOs, needs to be made a reality. Stakeholders are vital organs of decision making and should be empowered to be effective instruments of programme implementation, monitoring and evaluation. The consultation process is generally perceived as top-down. A more informed and effective communication strategy is critically needed to address this issue.
- 4.53 The APR Panel urges the finalisation and implementation of the draft growth strategy, which has the potential to address problems relating to the lack of diversification, to address agricultural productivity and to address the promotion of socioeconomic development in general. Other key recommendations contained in the report include the need to: enhance human resource capacity; improve public sector accountability with a view to improving service delivery; improve enrolment in education, especially among boys; increase access to antiretroviral treatment; improve access to electricity and other basic needs; and deepen broad-based participation in the development process.



5. Good and best practices

5.1 In the review of Lesotho, four best practices have been identified and are briefly outlined below:

5.1 Security sector reforms

5.2 Security sector reforms involved the establishment of civil control of the military and the police, in line with the re-establishment of a democratic order from 1993. Security sector reforms also involved measures to depoliticise and professionalise the security services. These measures have contributed to the attainment of relative peace and stability in the political system.

5.2 Constitutional monarchy

5.3 The constitution of Lesotho of 1993 established the constitutional monarchy and avowed the constitution as the supreme law of the land. This was affirmation of the trust and reverence that the Basotho have for their traditional form of governance, as well as confidence that such form can coexist with a state system derived from foreign influences. The constitutional provisions defined the functions, responsibilities and roles of the king in relation to the other organs of governance; hence they provided a framework for regulated and predictable working relationships that reduced political uncertainties and potential conflicts which could destabilise the nation.

5.3 Electoral system reform

5.4 The IEC was established after a constitutional amendment in 1997. It is responsible for the administration of elections for the National Assembly and local government and for the administration of referendums. In 2002, an MMP system was adopted after substantial consultations among the political parties and other stakeholders. The system combines the constituency elections for 80 members of Parliament elected on a first-past-the-post (FPTP) basis and a proportional representation compensatory system for 40 members. The negotiated compromise is highly regarded for having affirmed the maturity of the Basotho to conduct open dialogue and find own solutions for political conflict. The reformed electoral system is credited with having improved political inclusiveness, widened representation, and conferred legitimacy on political practices. All these factors may have contributed to the relative peace and stability that have been experienced from 2002.

5.4 Promotion of the rights of women

5.5 Lesotho has created institutions, passed laws and developed policies to promote the rights of women. The Legal Capacity of Married Persons Act (Act 9 of 2006) effectively eliminates discrimination against women in all walks of life (except in the instance of inheritance), including women married under customary law. In 2000, a Gender and Child Protection Unit was established. The Local Government Amendment Act 2004 (section 4, subsection 3) requires 30 per cent of local



council seats to be reserved for women representatives. These reforms have improved gender equality and the political representation of women in the political system.

6. Crosscutting issues

6.1 The thematic review revealed nine recurrent issues that impact on all areas of governance and which require a holistic intervention to find solutions. These include the following:

6.1 Implementation of codes and standards

6.2 According to the Country Self-Assessment Report (CSAR), Lesotho has acceded to most of the international and regional governance standards and codes outlined in the APRM questionnaire under each governance thematic area, but did not provide detailed information on the extent of ratification and domestication of the standards and codes.

6.2 Declining population growth

6.3 Lesotho's declining population growth is unique for a developing country. Possible causes of the decline in population growth include migration, falling fertility rates, rising mortality, decreasing life expectancy at birth and the HIV and AIDS pandemic. If present trends continue, Lesotho will be faced with the ominous threat that its population will cease to grow, or may even decline to below the replacement level. Such prospects should be a matter of serious concern to the country. Urgent policies to reverse these trends in the population growth rates are called for.

6.3 Service delivery and policy implementation gaps

6.4 The CRM found inefficient and ineffective delivery of public services and policy implementation to be a major weakness of governance in Lesotho deserving of urgent and determined remedial actions. In the public sector, this is due to a number of factors, including lack of technology, poor management, a poor working environment and low staff morale. Service delivery is also constrained by confusion over responsibilities, as many roles overlap among ministries, departments and divisions. The result is continuing power struggles and conflicts among government departments. Poor coordination within government leads to poorly integrated planning. Another area where service delivery is deemed poor is budget implementation.

6.4 Decentralisation

6.5 Lesotho has the legal and policy frameworks for decentralisation and has set up a number of structures in this regard, including local councils. There are, however, significant challenges to decentralisation: inadequate capacity of the stakeholders, from councillors to staffs of the councils and line ministries at the district level, to communities; poor fiscal decentralisation; lack



of resources for the development of district and community infrastructures, such as minor roads, bridges, village water supplies, etc.; and unresolved tensions between the newly created councils and the traditional chiefs, especially in the area of land and site allocations.

6.5 Public accountability and corruption

6.6 Poor accountability of public servants negatively impacts on public service delivery. Perceptions of prevalence of corruption are also strong. In tackling corruption and enhancing public accountability, Lesotho should consider overhauling the public accounting, auditing and reporting systems. Clarifying the roles and responsibilities of service delivery institutions, building their capacities and adequately resourcing them will also enhance efficiency and improve public accountability. Specific to corruption, there is a need to build the capabilities of the anticorruption agency, redefine its mandate and streamline its functions so that it concentrates only on fighting corruption.

6.6 Overdependence on aid

6.7 Aid dependency makes Lesotho highly vulnerable to adverse developments in the world economy, in particular in donor countries. The high dependence on aid, in particular that aspect of it that finances capital formation, could also pose long-term risks for Lesotho in terms of promoting policy for sustainable development financing and effective development planning. In order to reduce the potential vulnerability arising from overdependence on aid, the government of Lesotho should try to widen the tax base and improve the efficiency of tax collection.

6.7 Unemployment and migrant labour

6.8 High levels of unemployment have characterised Lesotho's economic and social scene for a long time. Historically, labour migration of the Basotho to South Africa contributed to the reduction of unemployment in Lesotho. Currently, the large number of retrenched Basotho migrant workers poses economic as well as social challenges. The APR Panel recommends several measures to boost domestic employment opportunities, including indigenous enterprise development. There is a need to focus on the development of instruments and measures that are based on the principle of maximising comparative advantage to attract South African industries and to penetrate South African markets. In the context of free labour movement and free capital movement, Lesotho should also start negotiations with the South African government and employers to revise policies and avoid possible discriminatory retrenchments of Basotho workers.

6.8 The HIV and AIDS pandemic in Lesotho

6.9 Lesotho has the third-highest adult HIV prevalence in the world, presently standing at 23.2 per cent, and there are an estimated (in 2007) 62 new infections and about 50 deaths each day. Key stakeholders (government and development partners) recognise the HIV pandemic as a major threat to the survival of the country, given a small population of 1.8 million and a slow population



growth rate of 0.1 per cent. The government of Lesotho has implemented several HIV prevention strategies, including education campaigns, work-based HIV prevention initiatives, targeting high-risk groups, prevention of mother-to-child transmission, male circumcision, and behaviour change. But it is also the case that sexual behaviour is rooted in powerfully held traditional attitudes and beliefs which are difficult to change.

6.9 Lesotho as an enclave political economy

6.10 One consequence of its enclave status is that Lesotho has few development alternatives. It is limited by its small size and low resource endowments. Lesotho, therefore, faces considerable vulnerability that could be a source of instability, such as South African protectionism and exogenous shocks in the global economy. Politically, Lesotho is severely constrained; at one time, South Africa closed its borders in the mid-1980s in order to influence Lesotho's political decisions. The overall effect is that Lesotho is severely constrained in its capacity to determine autonomous and sustainable development policies.

7. The National Programme of Action

7.1 A major outcome of the country self-assessment process was the National Programme of Action (NPoA) to address identified gaps and challenges in respect of governance in Lesotho. The estimated total amount required to implement the NPoA is **US\$194,545,000**. It will be vital for the government and the development partners to mobilise the resources required in order to implement the programme. The APRM framework also provides a channel through which African states can mutually support one another in implementing the NPoA.



CHAPTER ONE

1. The African Peer Review Mechanism and its implementation in Lesotho

1.1 Origin and purpose of the African Peer Review Mechanism

1. In recognition of the imperatives of good governance for development, the Sixth Summit of the Heads of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development (NEPAD), held in March 2003 in Abuja, Nigeria, adopted the Memorandum of Understanding (MoU) on the African Peer Review Mechanism (APRM). The APRM, which is turning out to be the most innovative aspect of NEPAD, is an instrument voluntarily acceded to by member states of the African Union (AU) as a self-monitoring initiative for good governance.
2. The mandate of the APRM is to ensure that the policies and practices of participating countries conform to the values, principles, codes and standards enshrined in the Declaration on Democracy, Political, Economic and Corporate Governance. This commonly agreed-to instrument for self-monitoring has at its epicentre the dissemination of best practices and the rectification of underlying deficiencies in governance and socioeconomic development processes among AU member states. The framework is aimed at encouraging and building responsible leadership through a self-assessment process, constructive peer dialogue and the sharing of information and common experiences in order to reinforce successful and exemplary practices among African countries.
3. The APRM is open to all AU member states. Accession entails undertaking to submit to periodic peer reviews and to facilitate such reviews. It includes commitment to implementing the National Programme of Action (NPoA) arising from the peer review and operationalising the agreed parameters for good governance across the four thematic areas, namely:
 - Democracy and good political governance.
 - Economic governance and management.
 - Corporate governance.
 - Socioeconomic development.



Key objectives of the APRM focus areas

4. The key objectives for each of the four thematic areas are listed below.

Democracy and good political governance objectives

1. Reduce intrastate and interstate conflicts.
2. Promote constitutional democracy and the rule of law.
3. Promote and protect economic, social and cultural rights, and civil and political rights.
4. Uphold the separation of powers, including the protection of the independence of the judiciary.
5. Ensure the accountability, efficiency and effectiveness of civil servants and other public office holders.
6. Fight corruption in the political sphere.
7. Promote and protect the rights of women.
8. Promote and protect the rights of children and young persons.
9. Promote and protect the rights of vulnerable groups, including the disabled, the poor, internally displaced persons (IDPs) and refugees.

Economic governance and management objectives

1. Promote macroeconomic policies that support sustainable development.
2. Implement sound, transparent and predictable economic policies.
3. Promote sound public financial management.
4. Fight corruption and money laundering.
5. Accelerate regional integration by harmonising monetary, trade and investment policy.

Corporate governance objectives

1. Provide an enabling environment and effective regulatory framework for economic activities.
2. Ensure that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability.
3. Promote the adoption of codes of good business ethics in achieving the objectives of corporations.
4. Ensure that corporations treat all stakeholders (shareholders, employees, communities, suppliers and customers) fairly and justly.
5. Provide for the accountability of corporations, directors and officers.

Socioeconomic development objectives

1. Promote self-reliance in development and build capacity for self-sustaining development.



2. Accelerate socioeconomic development in order to achieve sustainable development and eradicate poverty.
3. Strengthen policies, delivery mechanisms and outcomes in key social development areas, including education for all, and Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) and other communicable diseases.
4. Ensure affordable access to water, sanitation, energy, finance (including microfinance), markets, information and communication technology (ICT), shelter and land for all citizens, especially the rural poor.
5. Progress towards gender equality in all critical areas, including equal access to education for all girls at all levels.
6. Encourage broad-based participation in development.

APRM principles

5. There are a number of essential factors and principles that underpin the effectiveness of the APRM. These include: national ownership and leadership by the participating country; inclusivity and broad-based participation; and accountability, technical competence, credibility and freedom from manipulation.
6. To ensure that these principles are operationalised, rules and procedures have been developed to guide all stakeholders in the conduct of the review process. These include: the APRM Base Documents; the *Guidelines for Countries to Prepare for and to Participate in the APRM* (Country Guidelines); and the standard questionnaire for APRM assessment that is sent to all countries.

Leadership and management structure of the APRM

7. The governance structure of the APRM consists of three main bodies:
 - The Committee of Participating Heads of State and Government [African Peer Review (APR) Forum].
 - The Panel of Eminent Persons (APR Panel).
 - The APR Secretariat.

The Committee of Participating Heads of State and Government (APR Forum)

8. The overall responsibility for the APRM is vested in the committee of member states that have voluntarily acceded to the APRM. The APR Forum is headed by a chairperson elected from among the participating heads of state and government.
9. The APR Forum is mandated to meet at least twice a year to consider review reports and make other decisions relating to the management and implementation of the APRM.
10. The APR Forum may also hold *extraordinary sessions* as necessary to conduct peer reviews or consider other matters relevant to the implementation of the APRM.



The Panel of Eminent Persons (APR Panel)

11. In order to ensure the professionalism and integrity of the whole process, a Panel of Eminent Persons (or the APR Panel) has been set up. Deliberately drawn from all the five subregions of Africa, the APR Panel currently comprises the following:
 - Professor Adebayo Adedeji from Nigeria – West Africa.
 - Ambassador Bethuel Kiplagat from Kenya – East Africa.
 - Mrs Graça Machel from Mozambique – Southern Africa.
 - Professor Mohammed Seghir Babès from Algeria – North Africa.
 - Mme Domitila Mukantaganzwa from Rwanda – East Africa.
 - Professor Dorothy Njeuma from Cameroon – Central Africa.

The APR Secretariat, strategic partners and the Pool of Experts

12. The APR Secretariat provides administrative and technical support to the APR Panel in the execution of its mandate. Intentionally designed as a lean secretariat, the APRM relies on the support of APRM strategic partners [the African Development Bank (AfDB), the United Nations Economic Commission for Africa (UNECA), and the Regional Bureau for Africa (RBA) of the United Nations Development Programme (UNDP)], as well as on an established database of independent African experts.

1.2 The country review process

13. The APR process entails periodic reviews of the policies and practices of participating states to ascertain the progress being made towards achieving mutually agreed goals and to ascertain compliance with agreed political, economic and corporate governance values, codes and standards as outlined in the Declaration on Democracy, Political, Economic and Corporate Governance.
14. Bearing in mind that African countries are at different levels of development, on joining the APRM, a country will be assessed (the base review) and a timetable (programme of action) for effecting progress towards achieving the agreed standards and goals must be drawn up by the state in question, taking into account the particular circumstances of that state.

Types of reviews

15. There are four types of reviews:
 - The first country review (base review), which is carried out within 18 months of a country becoming a member of the APRM process.
 - Then there is a periodic review that takes place every two to four years.
 - In addition to these, a member country can, for its own reasons, ask for a review that is not part of the periodically mandated reviews.



- Early signs of impending political or economic crisis in a country would also be sufficient cause for instituting a review. Such a review can be called for by participating heads of state and government in a spirit of helpfulness to the government concerned.

Stage one

16. Stage one is the preparatory stage and involves the country putting in place the requisite structures for participation in the mechanism (the designation of a focal point, the setting up of a national commission and a secretariat, and the selection of Technical Research Institutes (TRIs) to lead the self-assessment process). In stage one, the country is also expected to undertake broad sensitisation regarding the APRM.
17. The APR Secretariat, for its part, prepares a background paper on the political, economic and corporate governance and development environment in the country to be reviewed, based principally on up-to-date desk research and material provided by national, subregional, regional and international institutions.
18. There are also some preparatory missions that may be fielded in stage one. Country advance missions are normally undertaken by the APR Secretariat and consist of bilateral meetings with relevant technical officials of the country to assist such officials to prepare for the onset of the review process in the country.
19. The deliberations of the Country Advance Mission focus on the following:
 - The establishment of national structures to manage APRM activities, including the designation of a focal point and the establishment of a national commission/council and national secretariat to support the implementation of the APRM in the country.
 - The sensitisation of stakeholders regarding the APRM.
 - The allocation of a budget for the review activities.
 - The time frame and programme of the support mission.
 - The introduction of the MoU for Technical Assessments and Country Review Missions.
20. The second mission that is fielded in the preparatory stage is the Country Support Mission (CSM), whose purpose is to assess the state of preparedness of the country to begin the review process. This mission culminates in the official launch of the APRM process. The CSM usually lasts for three to four days and is led by a member of the APR Panel, accompanied by APR Secretariat staff and representatives of the APRM's three strategic partners (the AfDB, the UNDP and UNECA). In addition to assessing the state of preparedness of the country based on the prerequisites discussed during the Country Advance Mission, the CSM will also elaborate a road map or timeline for countries to participate in the APRM process. Matters to be considered at this point include the process for selecting the TRIs, the writing, consolidation and validation of the Country Self-Assessment Report (CSAR), and establishing base criteria for the research methodologies to be used. The CSM should also hold more detailed discussions on the questionnaire for country self-assessment and on the budget to support the agreed road map. The CSM is a major event which should culminate in the inauguration of the National Governing Council (NGC) and the signing of the MoU to officially launch the country review process.



21. Following the CSM, the country continues with the sensitisation process and embarks on the self-assessment process in earnest. The finalisation of the CSAR and NPoA, and the submission of these to the APR Panel, marks the end of stage one.

Stage two: country review visits

22. This stage of the APRM comprises country review visits. During this stage, the Country Review Mission (CRM) will visit a country under review in order to carry out broad-based consultations with government, political parties, parliamentarians and representatives of civil society organisations (CSOs). The country review serves three main purposes, namely: to provide the CRM with the opportunity to interact with key governance stakeholders in the country; to afford the CRM an opportunity to discuss and validate the CSAR and the NPoA with the relevant stakeholders; and to assist in building consensus among key stakeholders on key issues and governance challenges for the country and how to address them.

The Issues Paper

23. The key to a successful review is the Issues Paper, which outlines substantive governance matters that form the core of the assessment and the review. These include the following:
- Specific substantive issues in the four thematic areas.
 - Issues relating to the adequacy of the data and information available.
 - Issues relating to the management of the APR processes in the country: was the structure established in line with the values and principles of the APRM, i.e., was it sufficiently independent and did it carry out the assessment objectively?
 - Issues relating to the processes that the country implemented in drawing up the CSAR and in developing the NPoA. The main issue is: was there participation by all stakeholders and was it broad enough?

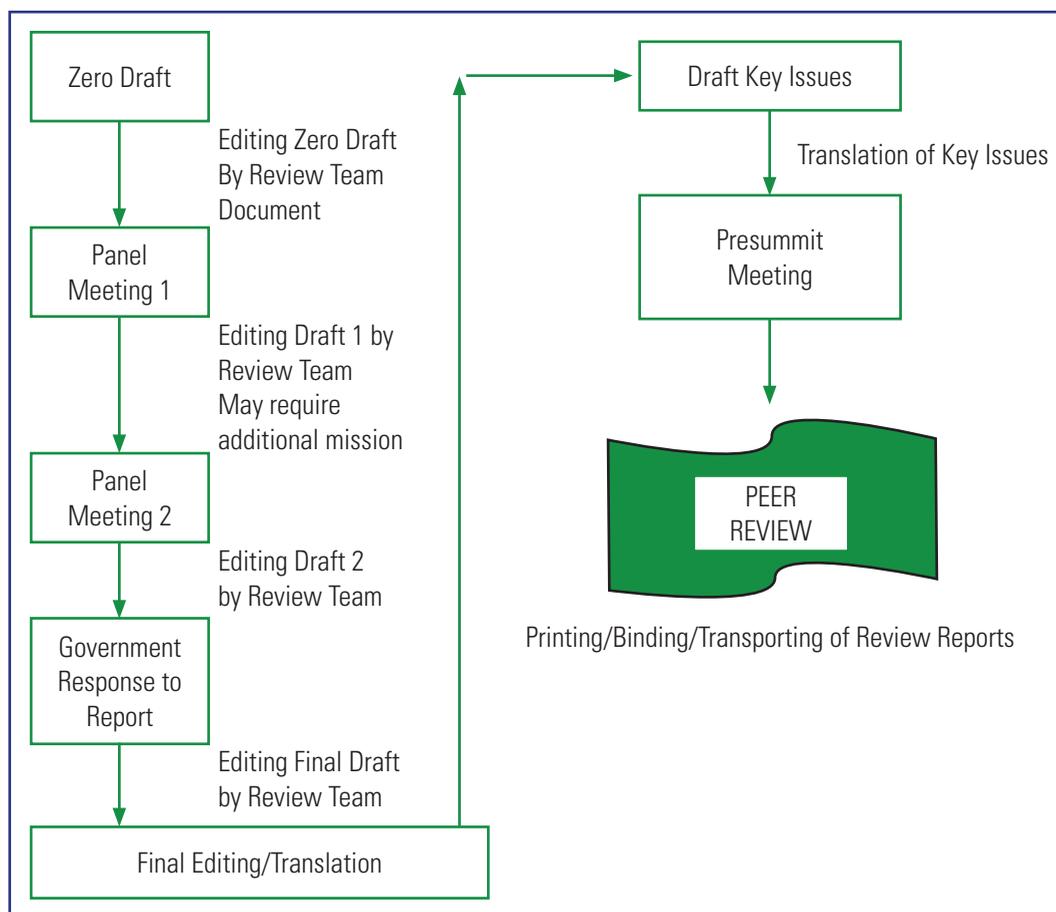
Stage three: CRM report

24. During this stage, the CRM prepares its report on the basis of its preliminary consultations and of the findings of the background studies and the country's programme of action. The report is discussed with government, after which appropriate revisions are made. The response of the government is appended to the report. Specific focus falls on how the NPoA could be improved, with best practices being highlighted and deficiencies or challenges that would call for deliberate efforts towards capacity building for the nurturing and consolidation of democratic governance being identified.

Stage four: submission of the report to the APR Panel

25. In this stage, the CRM report is submitted to the APR Panel for consideration. The APR Panel makes its recommendations regarding the report and submits the report to the APR Forum for peer review. The APR Forum deliberates regarding the report and makes the requisite decisions relating thereto. Stage four is completed when the chairperson of the APR Forum communicates the decisions of the forum to the head of state or government of the country concerned.



Figure 1.1: Key postreview mission activities up to the stage of peer review

Stage five: submission of the report to the APR Forum

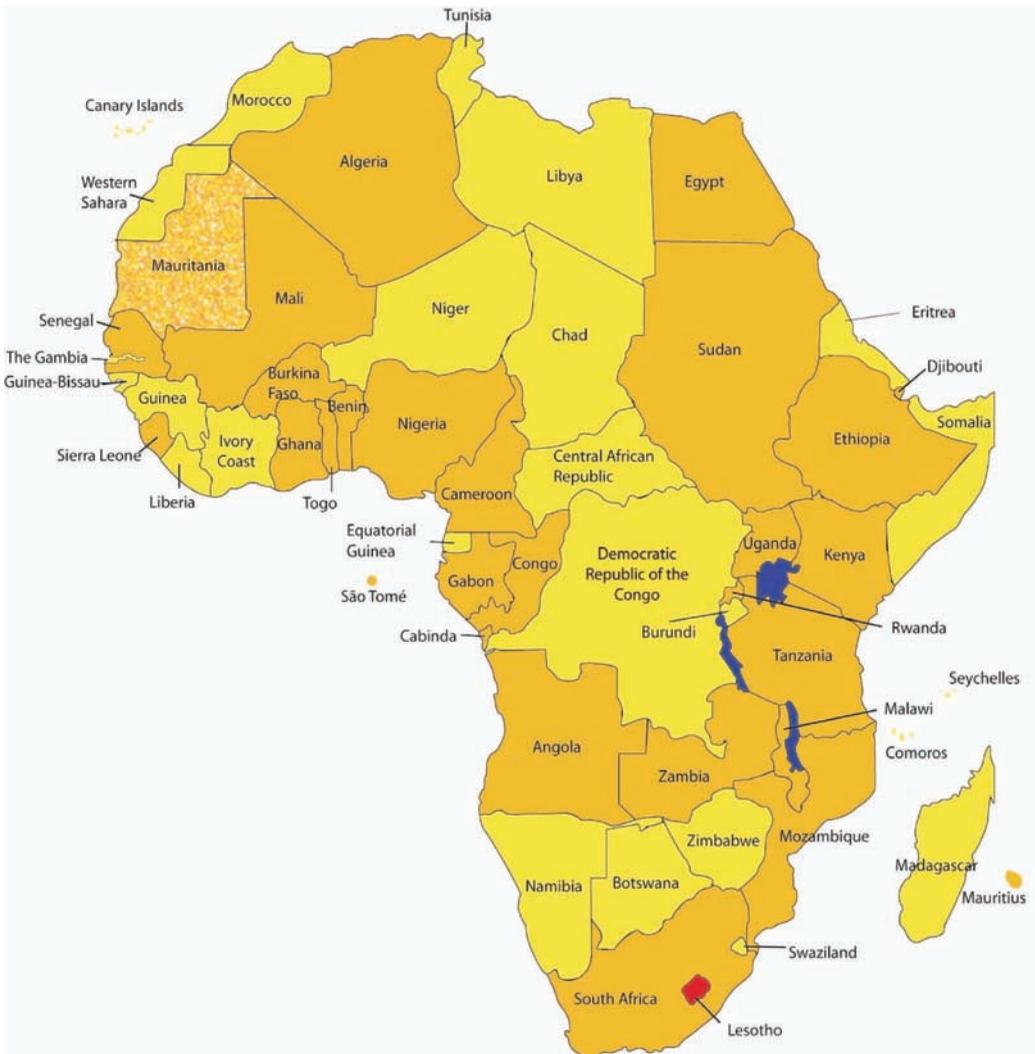
26. In this final stage, the APR Forum formally submits, and tables, the peer review reports (country report and the NPoA) to key regional and subregional structures. These include key supranational structures such as the AU, Pan-African Parliament (PAP), the African Commission on Human and Peoples' Rights, the Peace and Security Council and the Economic, Social and Cultural Council (ECOSOCC) of the AU, and the regional economic communities. This step completes the APRM process.



1.3 Progress so far

27. As at May 2009, APRM membership has grown to 29 out of 53 AU member states. Participating countries include Algeria, Angola, Benin, Burkina Faso, Cameroon, the Republic of Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritania⁷, Mauritius, Mozambique, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda and Zambia. This membership represents more than 75 per cent of Africa's population.

Figure 1.2: APRM geographical coverage



⁷ Suspended after a military coup.

28. Since its inception in 2003, the APR Panel has launched reviews in 16 countries⁸. Review missions have been fielded in 12 countries:
- Ghana (April 2005).
 - Rwanda (April 2005).
 - Kenya (October 2005).
 - South Africa (July 2006).
 - Algeria (December 2006).
 - Benin (July 2007).
 - Uganda (February 2008).
 - Nigeria (February 2008).
 - Burkina Faso (February 2008).
 - Mali (December 2008/January 2009).
 - Mozambique (February 2009).
 - Lesotho (March/April 2009).
29. So far, peer reviews at the level of heads of state and government have been conducted for nine of these countries⁹. The next countries in line for peer review are Mali, Mozambique and Lesotho.

1.4 Implementation of the APRM in Lesotho

30. Lesotho acceded to the APRM in July 2004 at the AU Summit held in Addis Ababa, Ethiopia.
31. The national process started with a national consultative workshop at the Manthabiseng National Convention Centre in Maseru in October 2005.
32. The specific objectives of the workshop were *inter alia*:
- To discuss the APRM Base Documents, instruments and procedures in order to facilitate their implementation.
 - To reflect on experiences and lessons learnt from other countries that are in an advanced stage of the APRM process.

⁸ These are: Algeria, Benin, Burkina Faso, Ethiopia, Ghana, Kenya, Lesotho, Mali, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, Tanzania, Uganda and Zambia.

⁹ Ghana was the first country to be peer reviewed in January 2006. Rwanda and Kenya followed in June 2006. The peer review of Algeria and South Africa, the first two of the five initiating members of NEPAD to reach this stage, was conducted at the Seventh APR Forum Summit Meeting held on 2 July 2007 in Accra, Ghana. Uganda followed in Sharm-El Sheik on 30 June 2008. Burkina Faso and Nigeria were peer reviewed at the first extraordinary session of the APR Forum held in October 2008 in Cotonou, Benin.



- To prepare a report on the challenges of the APRM implementation in preparation for the Sixth Africa Governance Forum (AGF).
 - To discuss the opportunities presented by the APRM process for Lesotho's democratic governance.
33. Following the consultative workshop, the country took steps to establish the national structures for the APRM. These included the national secretariat and a broad-based and all-inclusive APRM NGC to manage the APRM process in the country. An interministerial subcommittee was also set up to facilitate the mobilisation of resources and the sensitisation of government departments regarding the process.

The NGC and its Secretariat

Executive Committee

1. Mrs Momosebi Pholo – chairperson (Women's Groups).
2. Mr Seabata Motsamai – first vice-chairperson [Nongovernmental Organisations (NGOs)].
3. Dr Itumeleng Kimane – second vice-chairperson (National University Consultancy).
4. Mr Lengolo Monyake – member (Eminent Person).
5. Ms Mamoetsi Monare – member (Youth).
6. Mr Thuso Green – reporter (Private Sector).

NGC members

1. The Hon Mothetjoa Metsing – Member of Parliament (MP).
2. Mr Thabang Lekhela – Foreign Affairs and International Relations.
3. Mr Mohiomi Rantekoa – Trade and Industry, Cooperatives and Marketing.
4. Mr Moeketsi Majoro – Finance and Development Planning.
5. Mr Simon Phafane – Vision 2020.
6. Mrs Mamot'seare Makoko – Lesotho Institute of Public Administration and Management (LIPAM).
7. Mrs Mat'seliso Mapetla – Institute of Southern African Studies (ISAS), National University of Lesotho (NUL).
8. Mr Vuyani Tyhali – Labour Movement.
9. Mr Seabata Lengosane – People with Disabilities.
10. Mr Thabo Thakalekoala – Media.
11. Mr Seeisa Mokitimi – Churches.

Secretariat

1. Ambassador Masuhla Leteka – APRM Focal Point, Foreign Affairs and International Relations.



2. Mr Retselisitsoe Moea – Foreign Affairs and International Relations.
 3. Ms Mpho Palime – Trade and Industry, Cooperatives and Marketing.
 4. Mr Mokuoane – Local Government and Chieftainship.
 5. Ms Refiloe Sibolla – Foreign Affairs and International Relations.
34. The structures being in place, the CSM to formally launch the review process in Lesotho was fielded from 13 to 16 November 2006 under the leadership of Dr CL Stals, former member of the APR Panel¹⁰.

The methodology of the Lesotho self-assessment process

35. The research was conducted over a six-month period from December 2007 by the Consortium of the NUL's ISAS and LIPAM (NUL/ISAS–LIPAM Consortium).
36. The research consortium domesticated the APRM standard questionnaire in order to capture the local setting and this questionnaire was then used in the field. Scientific and objective methods were used to collect and analyse the data that was used as evidence for the assessment, group reports based on the identified research themes and subjects of the assessment were compiled, the thematic research reports on each of the four APRM assessment areas were harmonised into a final CSAR, and national priorities to be included in the NPoA were identified.
37. In order to adequately address both the breadth and depth of the issues to be investigated with regard to the APRM, the consortium adopted a research design that combined qualitative and quantitative strategies. This was intended to triangulate the data collected in order to present the most accurate picture of the information, issues and concerns identified for the analysis, while staying true to the requirements of the APRM. The design included four main elements: desk research, an expert survey, a national citizen survey, and focus-group discussions. Data for this country assessment was obtained from both primary and secondary sources. For the primary source, the main method was to design instruments to collect information in the field from the citizens across the country and from experts. The following specific instruments were used: Desk Research Guide, Citizens' Survey Questionnaire, Expert Survey Questionnaire and an Expert Cluster-Specific Interview Guide. These methodological approaches were discussed in a research methodology workshop. A one-day workshop was held for stakeholders to disseminate and validate the results of the draft CSAR. The report was well received, and participants commented on gaps and provided additional information on the issues of concern. This diverse input has helped improve the report and has been added to the final report.
38. Lesotho submitted its self-assessment report and programme of action in November 2008, paving the way for the fielding of the review mission.

¹⁰ Dr Stals retired from the APR Panel in June 2008 and was replaced by Prof Adebayo Adedeji as lead panellist for the Lesotho country review process.



The CRM

39. The CRM was fielded from 23 March to 9 April 2009 and comprised 14 members representing at least 10 African nationalities. The mission was led by Professor Adebayo Adedeji (Nigeria), chairperson of the APR Panel. Dr Chris Stals (South Africa), who formerly led the process for the country, joined the mission as a high-level resource person. Other members were as follows:

Democracy and good political governance

- Dr Samuel Ghartey Amoo (Ghana), former head of national security and principal adviser to the president and Cabinet of Ghana.
- Professor James Katorobo (Uganda), who has taught in various universities, including Makerere, Botswana and Lesotho universities. He has also served as senior adviser on governance at the UNDP headquarters in New York and was lead consultant to the Uganda APRM Commission.
- Professor Jonathan Mayuyuka Kaunda (Malawi), public policy researcher, analyst, consultant and adviser, and currently a senior research fellow at the Botswana Institute of Policy Analysis.
- Professor Maxi Schoeman (South Africa), head of the Department of Political Science and professor of international relations at the University of Pretoria.

Economic governance and management

- Dr Adam Elhiraika (Sudan), who is the officer in charge of the Macroeconomic Analysis Unit of UNECA.
- Professor Oladeji Ojo, formerly professor of economics, Obafemi Awolowo University, Ile-Ife, Nigeria, and acting director, Operations Evaluation Department, AfDB, and now executive director, Centre for Development Studies, Ibadan, Nigeria.

Corporate governance

- Ms Evelynne Change (Kenya), coordinator for corporate governance, APR Secretariat.
- Mr Dawit Makonnen (Ethiopia), senior economist with over 20 years' research and policy experience on African economic development issues, and who previously worked for the International Monetary Fund (IMF).
- Ms Gertrude Takawira (Zimbabwe), international consultant on corporate governance.

Socioeconomic development

- Ms Nana Boateng (Ghana), a research analyst for socioeconomic development at the APR Secretariat.
- Mr Pancrace Niyimbona (Burundi), energy affairs officer, UNECA.



- Dr Yousif A Suliman (Sudan), formerly director of the Planning Department of the Sudan Ministry of Planning and special assistant to the executive secretary and director, regional cooperation and integration, as well as director of administration, UNECA.

Activities undertaken during the CRM

40. The CRM was facilitated by the Ministry of Foreign Affairs and International Relations as the Focal Point Ministry.
41. The CRM formally began on 24 March 2009 with a launch attended by His Excellency, the Right Honourable Pakalitha Bethuel Mosisili, prime minister of the Kingdom of Lesotho. The mission subsequently paid a courtesy call to His Majesty King Letsie III.
42. Whilst in Maseru, the CRM interacted with key government departments regarding the thematic clusters, held sessions with the representatives of the Senate and Parliament, and met with the chief justice and members of the judiciary. The CRM further held discussions with various nonstate stakeholder groups, including women's groups, trade unions, the private sector, academia, faith-based organisations and political parties, and interacted with institutions with a bearing on governance [the Office of the Auditor General (OAG), the Central Bank of Lesotho (CBL) and the Independent Electoral Commission (IEC)]. Additionally, the CRM met with the diplomatic corps and bilateral development partners.
43. The CRM undertook visits to five of the 10 districts in Lesotho, namely Butha-Buthe, Leribe, Mohale's Hoek, Thaba-Tseka and Quthing. The centres brought together stakeholders from other districts, thus providing the mission with broad-based perspectives from the grass roots. Apart from meeting the district administrators and government officials at decentralised levels, the mission had open forums with stakeholder groups such as women's groups, the youth, the disabled, the elderly, NGOs, academia, the media, small businesses, faith-based organisations, trade unions, private sector companies and community-based organisations (CBOs), social service institutions and traditional leaders on the emerging issues in the CSAR and NPoA.
44. Finally, the mission returned to Maseru for wrap-up sessions with the Cabinet and the NGC.

1.5 Structure of the report

45. The report is structured on the basis of seven chapters. Apart from this present introductory section, chapter 2 provides an overview of, and backdrop to, Lesotho. The four chapters that follow evaluate developments and outstanding challenges in the four APRM focus areas (democracy and good political governance; economic governance and management; corporate governance; and socioeconomic development). Chapter 7 contains a discussion of the overarching issues, which are considered critical owing to their impact on governance and which require immediate and urgent attention. Finally, the NPoA and comments received from the country are annexed to the report.



CHAPTER TWO

2. Country background and context

46. The Basotho nation was established by King Moshoeshoe I about 200 years ago. He did this through bringing together disparate groups of refugees from various parts of Southern Africa who had been dislocated in the 18th and 19th Centuries by war, famine and natural migration. The nation thus began as an amalgamation of individuals from various ethnicities and political, cultural and linguistic backgrounds. Although a significant majority of the non-Sotho elements within this polity (mainly the Nguni in the north and south) retained their traditions, language and practices, they increasingly intermarried and were assimilated into the general culture and social life of the Basotho, and into what is now the Kingdom of Lesotho. Consequently, Lesotho stands unique in Africa as one of a few countries with an almost homogeneous ethnic composition, language and culture. The major religion is Christianity.
47. Lesotho is one of the few constitutional monarchies in the world and is unique in Africa in this regard. The king is the head of state, and appoints the prime minister, who is the head of government. His Majesty King Letsie III, the first son of the late King Moshoeshoe II and Queen Mother Mamohato Bereng Seeiso, is the reigning monarch. He succeeded his father, King Moshoeshoe II, when the latter was forced into exile in 1990. King Letsie III abdicated on 25 January 1995, the day on which His Majesty King Moshoeshoe II was reinstated on return from exile. Following the tragic death of King Moshoeshoe II on 15 January 1996, King Letsie III was reinstated as king on 7 February 1996. His coronation took place on 31 October 1997 in Maseru.

2.1 Social development context

48. Lesotho is a small country totally landlocked by South Africa. The country covers a total area of 11,718 square miles (30,355 square kilometres). Lesotho is the only independent state in the world that lies entirely above 1,400 metres (4,593 feet) in elevation; the lowest point is 1,400 metres (4,593 feet), and over 80 per cent of the country lies above 1,800 metres (5,900 feet). It is for this reason that Lesotho is sometimes referred to as the 'Mountain Kingdom' or the 'Kingdom in the Sky'. Three-quarters of the country is mountainous and not easily accessible. The remaining quarter of the country comprises lowlands, where 80 per cent of the people live, and is the most intensively cultivated zone. Only 9 per cent of land is under cultivation. The population distribution in Lesotho is 23.8 per cent urban and 76.2 per cent rural.
49. Compared with many other African countries, Lesotho is relatively small in terms of population size (only The Gambia, Swaziland, Botswana and Namibia have comparable or smaller populations). The Population Census of 1996 established the country's total population at 1.96 million. The latest census of 2006 estimates the population at 1.88 million, 76.2 per cent of which is said to be



living in rural areas. About half the population (56.7 per cent) lives below the poverty line. In recent years, life expectancy has been decreasing and the population is said to be declining.

50. Lesotho is grouped among the 49 least developed countries and was ranked 138 out of 177 countries on the United Nations Development Programme (UNDP) Human Development Index (HDI) in 2007. Poverty in Lesotho is widespread, with about 56.7 per cent living under the poverty line.¹¹ Life expectancy is estimated at 42.4 years (2006), a worrisome decline from 49 years in 2000, 57 years in 1995 and 59 years in 1990.¹² Moreover, the declining population growth rate, coupled with the high prevalence of the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) (23.2 per cent), means that Lesotho's limited human resources are steadily being depleted. Forty per cent of the population is below the age of 15. The age structure of the population of Lesotho, as affected by the level of fertility and mortality, has implications for the welfare of the whole nation. Lack of employment opportunities for many young people aggravates the prevalence of poverty.
51. Migratory movements continue to be important in Lesotho as economic realities compel the Basotho to drift from rural to urban areas and to South Africa for employment. It is estimated that 32 per cent of the male labour force aged 16 to 65 consists of labour migrants in South Africa. Remittances from migrant workers constitute between 20.9 and 29.4 per cent of gross domestic product (GDP). The recent economic crisis has resulted in increasing retrenchment from the mines, compounding further the existing unemployment situation and limiting financial remittances to families.
52. The government of Lesotho has taken several steps in an attempt to improve the position of women in Lesotho. These entail the inclusion of gender issues in development plans, the revision of laws and the drafting of policy documents addressing gender equality. This has largely resulted in improvements with regard to the status of women, but patriarchal cultural practices continue to militate against the realisation of full rights and privileges under the various laws and conventions.
53. The most critical socioeconomic challenge facing Lesotho is HIV and AIDS. Lesotho has the third-highest prevalence of HIV and AIDS in the world, with adult prevalence at 23.2 per cent among the 15 to 59 age group, while an estimated 270,000 adults were living with HIV as at 2007¹³. This has had a substantial effect on the country's social structure, livelihoods and food security. The HIV and AIDS epidemic constitutes not only a health crisis, but also a serious development crisis and is a key variable in programmes for tackling the governance and development challenges facing the country.

2.2 Political history

54. Since independence from Britain in 1966, the political history of Lesotho has been dominated by instability, controversy and conflict, sometimes spilling over into violence. This dynamic has

¹¹ UNDP (2008) Lesotho: Millennium Development Goals Status Report.

¹² World Bank (2009) Millennium Development Goals: Lesotho; World Development Indicators.

¹³ National AIDS Commission (NAC) (2008).



included three coups d'état (in 1970, 1986 and 1994), and 23 years of undemocratic government (including seven years of military rule). The last 10 years of democratic restoration have seen the establishment of a virtual one-party state, with the opposition failing to make a significant impact on national institutions. The salient political epochs can be categorised in five distinct periods: embryonic democracy (1966–1970), de facto one-party rule (1970–1986), the era of military dictatorship (1986–1993), the epoch of fragile democracy (1993–2002), and the era of relatively stable democracy (2002–to date).

Embryonic democracy: 1966–1970

55. Lesotho gained its political independence from Britain on 4 October 1966. This was the culmination of years of political agitation by various nationalist protest movements which evolved into modern political parties. Initially, the British colonial administration entertained the possibility of Lesotho becoming part of the 1910 Union of South Africa, but, upon resistance to this idea by the political elite, Lesotho (then Basutoland) was granted political independence. Self-government was preceded by the preindependence election of 1965. Contested by four political parties, namely the Basotho National Party (BNP), the Basutoland Congress Party (BCP), the Marematlou Freedom Party (MFP) and the Marematlou Party (MTP), this was the first multiparty election in the country and the first expression of democratic choice by the Basotho electorate. The election race was won by the BNP by a razor-thin margin of about 42 per cent of the total votes, which assured the party 31 out of a total of 60 parliamentary seats. Coming a close second to the BNP was the BCP with about 40 per cent of the votes, thereby securing 25 parliamentary seats.
56. Embryonic as it was then, Lesotho's young democracy did not experience any major political turbulence and there were encouraging signs that a multiparty democratic dispensation was surely in the offing. This optimism was further reinforced by the positive developments of the first five years of independence, generally marked by legitimate and constitutional rule, political stability, the rule of law and political tolerance. However, the developments of 1970 would turn over a different page in Lesotho's postcolonial history.

De facto one-party rule: 1970–1986

57. The enormous optimism resulting from political independence and its immediate aftermath presented a golden opportunity for building firm foundations for democratic governance, but such optimism was shattered by the events surrounding the 1970 general election and its aftermath. As the results being announced showed the opposition heading for victory, Leabua Jonathan, the prime minister, seized power on 31 January 1970. The constitution was suspended and the king sent into exile. A de facto one-party state emerged. This autocratic rule was marked by conflict and instability, which further compromised the legitimacy of government and the credibility of the governance regime.
58. In 1986, BNP one-party rule was itself overthrown by the military, led by General Metsing Lekhanya, who, in turn, was displaced by junior officers within the army in 1990. The pork-barrel and repressive politics of the BNP regime was replaced by politics of the barrel of the gun, which further consolidated authoritarian rule between 1986 and 1993.



The era of military dictatorship: 1986–1993

59. The political landscape under the military regime was marked by the following:
- A military–monarchy alliance at the highest level of the state.
 - The banning of party-political activities by Order No. 4 of 1986.
 - Electoral politics remaining suspended.
 - The worsening state of human rights.
 - The intensification of indiscipline and factionalism within the security forces.
60. The military dictatorship was followed, between 1993 and 2002, by an era of fragile democracy in which Lesotho's political development witnessed the reinstitutionalisation of multiparty democracy.

The epoch of fragile democracy: 1993–2002

61. This new political development was ushered in by the first democratic election since the abortive one of 1970. The 1993 election delivered a landslide victory for the BCP. The BCP won 74.7 per cent of the total votes and secured all 65 parliamentary seats. Despite the fact that it won 22.6 per cent of the votes, the BNP did not even get a single seat in the legislature. This skewed distribution of parliamentary seats demonstrated the serious deficiencies of Lesotho's first-past-the-post (FPTP) electoral model, which was inherited from Britain as part of the Westminster constitutional arrangement.
62. Exciting as the onset of multiparty democracy was following decades of authoritarian rule, Lesotho's democracy still remained fragile. Political instability and violent conflict among key governance institutions – the monarchy, the executive, the legislature, the public service, political parties, the army, and the police – were manifest.
63. Nonetheless, elections were regularly held between 1993 and 2002, albeit with various types of election-related conflict. In both the 1993 and 1998 elections, citizen participation was relatively high, as illustrated by a voter turnout of over 60 per cent.
64. Despite the fact that the 1998 election was proclaimed by many international observers as free and fair, it was almost immediately followed by the worst violent conflict in Lesotho's history, a conflict involving the government and opposition parties. Opposition parties contested the election outcome, but it was evident that the split in the BCP and the establishment of the Lesotho Congress for Democracy (LCD) had triggered a deep sense of bitterness within the ranks of the BCP. This bitterness presented the BNP with a golden opportunity to join forces with the BCP and challenge the election outcome. The conflict escalated into violence on a large scale and government sought military intervention from South Africa. South Africa, jointly with Botswana, intervened militarily and diplomatically to quell Lesotho's political instability. The diplomatic efforts comprised, among others, negotiations involving belligerent parties aimed at initiating constitutional and electoral reforms. Notable among these reforms was the adoption of the Mixed Member Proportional (MMP) system.



The era of relatively stable democracy: 2002–to date

65. Today, Lesotho is a relatively stable and liberal democracy. The four successive elections held since the return to multiparty democracy symbolise the deepening of the democratic dispensation.
66. The general acceptance of the new electoral model as inclusive and representative of all shades of political opinion has been one of the main achievements since 2002. This model also won Lesotho credibility regionally and internationally as a way of deepening democracy and ensuring political legitimacy. Key institutions of democracy are increasingly becoming vibrant, even if their capacity remains wanting. These include the three main arms of government (the executive, the legislature and the judiciary), political parties, civil society organisations (CSOs) and statutory watchdog institutions such as the Independent Electoral Commission (IEC), the Office of the Auditor General (OAG) and the Office of the Ombudsman. The media (print and electronic) has also become more vibrant and continuously keeps government in check. Local government structures have been revamped and restructured in order to provide an organic linkage between central and local governance and development efforts.

2.3 The economic context

67. Lesotho's economy has historically been based on subsistence agriculture and remittances from migrant labour. However, this picture began to change slowly in the recent past as a result of declining agricultural output, mostly due to land degradation and low investment in the sector. Remittances from mine workers have also continued to reduce owing to restructuring of the sector as well as retrenchments resulting from the current global economic crisis.
68. Water is Lesotho's most significant natural resource and is being exploited through the multibillion-dollar Lesotho Highlands Water Project (LHWP). Initiated in 1986, the project is designed to capture, store and transfer water from the main Lesotho river systems to South Africa's Free State and greater Johannesburg area, which has a large concentration of South Africa's industry, population and agriculture. In addition, electricity is generated to meet Lesotho's domestic demand, as well as for export to South Africa. Lesotho has generated approximately \$24 million annually from the sale of electricity and water to South Africa.
69. Lesotho has taken advantage of the African Growth and Opportunity Act (AGOA). Under this arrangement, Lesotho's textiles are allowed unfettered access to the United States (US) market. Consequently, in 2002, Lesotho recorded a 40 per cent increase in its commodity exports. While this export-led garment industry has been helpful in creating the needed jobs in the country, where unemployment is estimated at 40 per cent, its prospects are not encouraging. As the minister of finance and development planning pointed out in the 2009 budget speech, the global and regional economy has impacted negatively on Lesotho, and will continue to do so. Lesotho textile exports to the United States of America (USA) fell by 11 per cent between December 2007 and December 2008, and are continuing to fall. Furthermore, although Lesotho has been exporting textiles for the last 20 years, it has no institutions that maximise the benefits from this trade. Moreover, dependence on footloose investors may not be sustainable.



70. According to the United Nations Economic Commission for Africa (UNECA) Study on Monitoring Good Governance¹⁴, Lesotho is attracting external economic assistance, most of which is directed to alleviating the scourge of HIV and AIDS and reducing poverty. There are significant donor-supported development programmes as a result of the country having recently qualified for the US Millennium Challenge Corporation (MCC) so as to specifically stimulate investment. Benefits include: the improving access to credit; decreasing transaction costs; the increasing participation of women in the economy; increasing water supply for industries and domestic needs, and the enhancing of urban and rural livelihoods through improved watershed management; and increasing access to life-extending, antiretroviral therapy and essential health services by providing a sustainable delivery platform. It is envisaged that the MCC will result in good prospects for economic policy and growth in Lesotho. These commitments require the government to deepen democracy, uphold human rights, and implement programmes for reducing poverty in Lesotho through economic growth.
71. The country has a growth strategy document which all line ministries must abide by in developing budget proposals that work toward achieving economic growth in the country and thus poverty alleviation. The country has also embarked on tax reforms to improve the investment climate and provide incentives and opportunities for companies to establish businesses in the country. For instance, in 2006/2007, company tax was reduced from 35 per cent to 25 per cent of profits. The Central Bank of Lesotho (CBL) and the government have also taken drastic measures to inspect the operations of financial institutions in Lesotho. For example, pyramid schemes and unauthorised banking are currently under investigation for the purpose of ensuring proper licensing and the maintenance of financial stability in the country.
72. Lesotho, Swaziland, Namibia and South Africa also form a common currency and exchange control area known as the Common Monetary Area (CMA). The institutional arrangements under the CMA do not permit the pursuit of an independent exchange rate policy. The CMA, however, allows unrestricted movement of capital across member states, thereby reducing transaction costs and foreign exchange.
73. In 1997, Lesotho withdrew from the Common Market for Eastern and Southern Africa (COMESA) and cast its regional trade with the Southern African Development Community (SADC). Under the SADC Free Trade Area Protocol signed in 1996, Lesotho is obliged to remove import restrictions over a period of eight years. It is estimated that this agreement will result in a 17 per cent reduction in its customs revenues, which will have a negative impact on development.
74. Lesotho is a signatory to the Southern African Customs Union (SACU). SACU arrangements provide for the sharing of customs revenue among member countries according to an agreed formula. The implementation of the 1969 SACU agreement was essentially tilted in favour of South Africa as a dominant power, while the other countries lost out in terms of developing their own industrial bases. They were meant to remain labour reserves for South Africa rather than industrial competitors. Be that as it may, receipts from SACU provide much of Lesotho's income, accounting for over 50 per cent of the public revenue from 2002 to 2008. Since the positive political changes in South

¹⁴ UNECA Study on Monitoring Good Governance in Lesotho 1993–2003, M Mapetla and T Petlane (eds), Institute of Southern African Studies (ISAS), Roma, 2007.



Africa that witnessed the demise of apartheid and the onset of democratic rule in 1994, SACU has been undergoing restructuring. Renegotiation of the new SACU agreement was concluded in 2002 and subsequently signed and ratified by all five member states. The new agreement provides for, among others, a new system in respect of the common revenue pool and the revenue-sharing formula (CBL 2003:7).

2.4 Conclusion: strengths, challenges and future prospects for Lesotho

Strengths

75. Since the 1820s, when King Moshoeshe I founded the Kingdom of Lesotho, the Basotho have successfully struggled to preserve their independence. Throughout the colonial period, they resisted annexation plans, at first to the Cape Colony and later to South Africa, and became an independent sovereign state in 1966. Lesotho is to be commended for its resilience as a sovereign nation and for the preservation of its autonomy against great odds. The homogeneity of the nation as regards language, culture and religion forms a sound basis for social cohesion and nation-building.
76. Lesotho has maintained its traditional chieftainship system and the heritage of the monarchy and has incorporated both into a modern, democratic governance architecture. The coexistence of multiparty, democratic electoral systems, the separation of powers between the three organs of state (the executive, Parliament and the judiciary), and the fact that the king reigns, but does not rule, are all provided for in a written constitution and constitute a major governance achievement of the Basotho that is worthy of emulation.
77. Lesotho was plunged into several decades of misrule ranging from de facto one-party rule to military authoritarianism. In spite of these governance upsets, Lesotho has managed to turn this around and establish a relatively stable democracy. Since 1993, when democracy was restored, Lesotho has demonstrated a capacity for constitutional innovation by adopting the MMP system, a system that has increased the representation of small parties in Parliament and has helped to diffuse one of the main causes of postelection violence. The general acceptance of the new electoral model as inclusive and representative of all shades of political opinion has been one of the main achievements of the past five years. This model also won Lesotho credibility regionally and internationally as a way of deepening democracy and ensuring political legitimacy.
78. The landscape of the country is picturesque and unique in the world. Water, which is a key resource that is being exploited, continues to provide Lesotho with foreign exchange earnings. The landscape has the potential to provide a niche in tourism.
79. Lesotho is said to have one of the highest literacy rates in Africa.

Challenges

80. The attainment of relative political stability notwithstanding Lesotho's political landscape has been characterised by considerable political uncertainties and violent contestations, particularly during elections.



81. Lesotho's exercise of its political and economic policies is challenged by its location as a classic enclave of South Africa. When shocks occur in the South African economy, the negative effects are transmitted to Lesotho. Because of its size, Lesotho is also unable to compete with a highly sophisticated economy such as that of South Africa. Additionally, Lesotho relies on South Africa for many critical services like banking, medical referrals and higher education.
82. Lesotho has the third-highest adult HIV prevalence in the world, standing at 23.2 per cent. According to the NAC (2008), there are an estimated 62 new infections and about 50 deaths each day. The scourge of HIV and AIDS is therefore a major threat to the survival of the country, given its small population of 1.8 million and its slow population growth rate of 0.1 per cent. HIV and AIDS is drastically undermining efforts to promote good governance in all sectors, as it reduces the supply of a skilled workforce in the public and the private sectors.
83. The high incidence of HIV and AIDS in Lesotho has become a major cause of poverty. Although the economic consequences of the pandemic have not been analysed fully, preliminary estimates point to the fact that the costs to the economy and the public sector are quite high.
84. Declining productivity and the reduction in arable land pose challenges for food security. Lesotho, as noted, is a predominantly rural economy with about 76 per cent of the population dependent on agricultural land. Low incomes and the HIV and AIDS pandemic have combined to worsen food insecurity among the Basotho. Lesotho produces only 30 per cent of the food required to feed its population in a normal year. The agricultural sector is vulnerable to the vagaries of the weather; hence the country needs additional food assistance in drought years.
85. One of the major constraints facing Lesotho is its poor and inadequate infrastructure. There are no good roads in most of the districts and inadequate infrastructure constrains investment and growth, especially in remote mountain areas. The Country Self-Assessment Report (CSAR) indicates that, even in the capital city, the neglect of the railhead at Maseru Station is hampering the development of sandstone quarrying and other manufacturing sectors.
86. Lesotho is not likely to escape the effects of the current global economic crisis. As the West feels the impact of the recession, aid flows will contract and this will ultimately have an impact on various countries that are very reliant on aid. Low-income countries, of which Lesotho is one, are considered the most vulnerable among the developing countries, as they are more integrated in the world economy through trade, foreign direct investment (FDI) and remittances.

Future prospects

87. Economic interlocking of Lesotho into South Africa has many positive consequences such as macroeconomic stability and single-digit inflation. In addition, some of the wealth created in South Africa is carried into Lesotho through migrant remittances. Lesotho also benefits from the revenues of a single customs union. Therefore, while being surrounded by the highly modernised economy of South Africa exposes Lesotho to the risks of overdependence, this can be turned into an opportunity by means of shrewd economic strategy and an indefatigable determination to succeed in the context of adversity and inequality. The regional integration arrangement is undoubtedly the most optimal for Lesotho in the light of its size and its geographic location inside South Africa. The



challenge to Lesotho is to design and implement appropriate policy to enable it to participate more meaningfully in economic integration arrangements and to widen its market base. In addition to pursuing preferential trade arrangements, finding a niche and increasing competitiveness are the key to progress in this regard.

88. The development of the textile and manufacturing industries is a step in this direction. To enhance private sector growth, Lesotho needs to be more strategic in: diversifying the economic base; retaining and expanding the FDI base of the textile industry; attracting new FDI in order to develop new industrial clusters; and supporting the local private sector through value-add activities in agribusiness, sandstone mining and tourism.
89. Lesotho could brand itself as a major tourist destination for those that love mountaineering and other outdoor activities.
90. Although Lesotho is said to have a high literacy rate in Africa, the Country Review Mission (CRM) noted repeated concerns about lowly skilled and unskilled labour and the pervasive human resource capacity constraints in the country. Lesotho needs to develop its human capital and the right skill sets for a highly sophisticated service economy.
91. Lesotho's embracing of the African Peer Review Mechanism's (APRM) principles of governance and programmes of action is a step in the right direction for achieving its vision of becoming a stable democracy, a united and prosperous country, and a country at peace with its neighbour and enjoying the same levels of social and economic development. The challenge facing the country is to consolidate the gains made through broadening the political space for various democracy actors to shape the country's governance trajectory. Besides strengthening institutions of governance, it is also imperative that democratic culture and practice be embraced and entrenched. This culture entails political representation, participation, accountability, human rights and the rule of law.



CHAPTER THREE

3. Democracy and good political governance

3.1 Overview

92. Lesotho is a constitutional monarchy that gained independence from the United Kingdom in 1966. The inhabitants of the country are quite homogeneous in ethnic-linguistic composition, and the major religion is Christianity. The king is the head of state, whereas the prime minister is the head of government. The king's position is hereditary and accession to the throne is regulated by the Office of the King Order No. 14 of 1990. The prime minister is appointed by the king in terms of section 87, subsection 2, of the constitution.
93. The legislature is composed of two houses, the National Assembly, which has 80 elected members and 40 proportional representatives (making for a total of 120), and the Senate, which is composed of 33 members, 22 of whom are hereditary principal chiefs, with the other 11 being appointed by the king on the advice of the Council of State. The Council of State is composed of the top state officials from the executive, legislative and judicial branches of the state, a principal chief, as well as four nonstate stakeholders appointed by virtue of their skills and expertise. Its role is to advise and assist the king in the discharge of his functions.
94. The judiciary is headed by the chief justice and consists of the Court of Appeal, the High Court, magistrates' courts and local courts. There is a Labour Appeal Court which is at the same level as the High Court and which is presided over by a judge of the High Court. The judicial commissioner's court is a customary appellate court of the local and central courts. Lesotho has a dual legal system in which the above-named courts use common law and Roman Dutch law.
95. Lesotho has undergone painful transitions from colonial rule to the present constitutional order. Its political history and constitutional development have been characterised by considerable political conflict. Independence was gained on 4 October 1966, after years of political agitation by various nationalist protest movements. The British colonial administration had entertained the possibility of Lesotho becoming part of the Union of South Africa, which was established in 1910.
96. Lesotho started off as a multiparty state. Four political parties contested the preindependence elections of 1965. These were the Basotho National Party (BNP), the Basutoland Congress Party (BCP), the Marematlou Freedom Party (MFP) and the Marematlou Party (MTP). This was the first multiparty democratic election. The four parties have since undergone various permutations as a result of splintering, but still have an influence on the current composition and conduct of party politics.
97. The brief period of multiparty democracy was followed by de facto one-party rule from 1970 to 1986. Internal political conflict and instability characterised this period and had its roots in the



BNP's unwillingness to accept the results of the 1970 general elections and in its decision not to hand over power to the BCP. Facing imminent defeat, the ruling BNP interrupted the elections, annulled the electoral results and declared itself the legitimate government. The party's pretext was that the electoral process had been characterised by intimidation and that there was a threat to national security from the forces of communism. The prime minister suspended the constitution, exiled the king and suspended the judiciary. A five-year moratorium was declared on political activity and 23 years would pass before a multiparty system would be restored.

98. The BCP, which had apparently won the elections, was thus sidelined, but organised clandestine resistance to overthrow the government. Its underground military wing, known as the Lesotho Liberation Army (LLA), organised an armed insurgency against the one-party regime from the 1970s to the 1980s.
99. During this time, Lesotho became victim to the Cold War and the political and economic designs of apartheid South Africa. South Africa was particularly concerned that Lesotho appeared to support the African National Congress (ANC), which was fighting for majority black rule and the destruction of the minority racist regime. It was also proposing the formation of a Constellation of Southern African States (CONSAS) that would be created from a forced unification of the black homelands and the satellite territories (including Lesotho). Lesotho was subjected to various forms of destabilisation by South Africa.
100. The full scale of South Africa's might was demonstrated in the remapping of Lesotho's history. In 1985, the opposition parties boycotted the general elections and the BNP declared itself duly elected. However, the military, with backing from South Africa, overthrew the BNP regime in 1986. Thereafter, the monarchy was reinstated and became a junior partner to the military, which ruled from 1986 to 1993.
101. The country's current constitutional order was established in 1993 and some significant constitutional amendments have been made since then. The first such amendment was made in 1996 and was designed to provide a legal basis for restructuring the armed forces. A second amendment gave the power to discipline public servants and terminate their contracts to the ministries, while the Public Service Commission (PSC) retained the function of appointment. Another notable amendment, made in 1997, was intended to introduce a reformed local government system that would be based on elected councils. In the same year, yet another amendment was made in order to allow the establishment of an Independent Electoral Commission (IEC). Further electoral reform was facilitated by a 2001 constitutional amendment designed to bring about the adoption of a Mixed Member Proportional (MMP) electoral system.
102. There have been four general elections since the re-establishment of a democratic political order: in 1993, 1998, 2002 and 2007. The electoral system has been constantly challenged by the tendency of political parties to dispute electoral results. There have also been frequent party splits, resulting in a proliferation of political parties, which now number 20.
103. The inherent conflict resulting from the political contests, which culminated in bloody riots in 1998, prompted the electoral reforms, and the MMP system was first used in the 2002 elections. The system combines the practices of first past the post (FPTP) and proportional representation



(PR). Eighty constituency seats are contested on the FPTP ballot and 40 on the PR ballot. The PR component is utilised as a compensatory mechanism to ensure the inclusion of, and representation from, the smaller political parties that would otherwise not be represented in the National Assembly under the FPTP component. The 2002 elections were also the second to be administered by the IEC.

104. With regard to the strengthening of democracy and good political governance, there have been three best practices that could serve as lessons to other African countries. These are: the consolidation of the constitutional monarchy; security sector reforms that established civil control of the military and the police; electoral reforms that established the IEC and the MMP electoral system. Lesotho has also made strides in the promotion of women's rights through enactments that eliminate discrimination against them and provide for their enhanced representation in local government (identified as a best practice in the chapter on socioeconomic development). These have been supported by other measures such as the establishment of the Office of the Ombudsman and an anticorruption bureau called the Directorate on Corruption and Economic Offences (DCEO). The nurturing of a culture of consultation and dialogue among the political parties, as exemplified in the negotiated compromise that led to the MMP electoral reform, has also contributed to the strengthening of democracy and good political governance.
105. Despite these notable developments with regard to democracy and good political governance, Lesotho still faces a number of political challenges. The first major challenge relates to the internal management of political parties and the interactions among them; the second relates to the perception that corruption is growing and is not being effectively checked.
106. Intraparty conflicts persist and are manifested in continuing party splits and floor crossings by members of Parliament. Interparty rivalries are playing themselves out in continuing allegations that there was manipulation of the MMP electoral system by political parties during and after the 2007 elections. There were accusations that certain parties had formed less-than-transparent political alliances with others in order to increase their representation in the National Assembly. This was the cause of the interparty tensions that led to the appointment of Botswana's former president, Sir Ketumile Masire, as a Southern African Development Community (SADC) special envoy charged with mediating among the political parties to find a solution to the interparty disagreements. The SADC feared that the discord among the parties would lead to an escalation that could result in conflict which would destabilise the country, render the political system fragile and reverse the progress made with regard to good democratic political governance. The resurgence of interparty squabbling since 2007 has not been successfully resolved. A combination of these party dynamics has the potential of growing into full-blown conflicts that could detract the government from its normal functions.
107. A second major challenge relates to corruption, which the Country Self-Assessment Report (CSAR) acknowledges is entrenched through the absence of public accountability. The auditor general and the minister of finance and development planning in fact acknowledge that public accounts have been in a very poor state for the past 30 years. The periods of one-party and military rule eroded any semblance of public accountability, and this situation has barely improved since the restoration of multiparty democracy. For instance, the auditor general did not produce any reports



between 1996 and 2001. The problems regarding auditing and reporting persist, and, in 2009, Parliament is only just debating the 2003/2004 audit reports, while those for 2004/2005 and 2005/2006 have just been submitted. The past few years have also seen creeping cronyism and corruption. For example, a scandal involving the sale of official cars at greatly discounted prices to public officers who had been using them has been perceived by the public at large as a sign of the official tolerance of corrupt practices. This is coupled with perceptions that public procurement is tainted by favouritism and nepotism.

108. Other challenges that have an effect on democracy and good political governance arise from the broader context of Lesotho's existence, including the country's economic vulnerability, poverty, unemployment and the prevalence of the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS). Lesotho has a vulnerable economy characterised by a small territory that is totally surrounded by, and dependent on, South Africa. Dependence on South Africa is manifested in various ways, namely in: Lesotho's reliance on the remittances from men employed in the mines of South Africa; growing unemployment due to retrenchments in these mines; the dependence of state revenue on the export of water to South Africa from the Lesotho Highlands Water Project (LHWP); and payments from the Southern African Customs Union (SACU). Unemployment is estimated at 46 per cent; hence the high level of labour migration and dependence on remittances. The high prevalence of HIV and AIDS has the potential of further reducing the effectiveness of public service delivery. Lastly, apart from the acknowledged dependence on South Africa, Lesotho is also reliant on foreign aid, which raises questions about the country's capacity to map the direction of its development.

Summary of the findings of the Country Review Mission (CRM)

Standards and codes

109. The CRM found that Lesotho has signed numerous international agreements that relate to democracy and good political governance, including the Charter of the United Nations (UN), the Constitutive Act of the African Union (AU), the New Partnership for Africa's Development (NEPAD) Framework Document, and the Treaty of the SADC. There are also others covering: the recognition and protection of civil, political and cultural rights; human rights (women, children, racial discrimination, the status of refugees, labour, education, etc.); freedom of political association; war and conflict; crime; corruption; and human trafficking. However, Lesotho lags behind in the ratification, domestication and implementation of, and reporting on, the various agreements. The CRM was unable to obtain an updated register of the agreements and the status of their application.

Assessment on African Peer Review Mechanism (APRM) objectives

110. The CRM's findings are summarised in five broad categories that encompass the nine objectives under democracy and good political governance. The broad categories are:
- The prevention of political conflict that could diminish constitutional democracy.
 - Constitutional democracy and the rule of law.



- The separation of powers and the independence and effectiveness of the judiciary and the legislature.
- Public service efficiency, effectiveness and accountability.
- The promotion and protection of human rights and liberties.

Political conflicts

111. The stakeholders interviewed by the CRM believed that the internal consultations and dialogue that led to the compromise to reform the electoral system were very valuable. The MMP electoral compromise solution is credited with enhancing open dialogue, achieving greater inclusiveness and broader political representation in the National Assembly, and generally bringing about the peace that Lesotho has enjoyed in the past few years. There is a strong feeling that the Basotho are capable of resolving their political differences. What is required are the establishment and consolidation of local mechanisms and capacity development for dispute mediation and conflict resolution, which should involve the IEC and political parties, the churches, traditional leaders and local nonstate actors.

Constitutional democracy and the rule of law

112. The CRM found that the Basotho have a long-standing traditional system of governance that is based on their historical values and customs. The customary system of governance has deep roots and is highly respected everywhere in the country. The traditional chieftainship system, which extends from the village headman to the chiefs, to the principal chiefs, is central to social cohesion. Chiefs perform functions provided for in sections 6 and 7 of the Chieftainship Act of 1968.
113. The Basotho recognise and accept that their traditional form of governance must coexist with the colonially bequeathed system of governance. This is the basis for the adoption of the constitutional monarchy that complements, rather than competes with, the modern state. They cite the coexistence of a traditional monarchical system of governance with the elected government as an example of how their culture and traditions are complementary to an imported form of democracy. It is the respect for traditional authority and the overwhelming desire for its perpetuation that are at the root of the establishment of the constitutional monarchy. The Basotho generally perceive that there is constitutional rule in as far as their institutional arrangements and practices are guided by the 1993 constitution of Lesotho. The functional interactions of the head of state, head of government, Council of State, Senate, National Assembly, College of Chiefs, judiciary and customary courts, and all the other state institutions that are provided for in the constitution of Lesotho, should be understood in the context of the centrality of the traditional monarchy to this unique governance system. However, the concept of the separation of powers is interpreted differently from the classic Western definition of the term. The king is central to the governance situation of the nation state, and he is also the unifier of the Basotho nation. The king serves as the point of interface and unification of the functions of the executive, legislature and judiciary. As a matter of fact, all the governance functionaries have an obligation to consult with and advise the king. Therefore, the CRM urges respect for the values and wishes of the Basotho nation and



hails the Basotho for being at the forefront of operationalising the constitutional monarchy in the African context.

Public service performance and accountability

114. Whereas public service efficiency, effectiveness and accountability are generally perceived to be below average, the CRM was apprised of various policy initiatives aimed at correcting the situation. However, it was also acknowledged that there is inertia at all levels of the functioning of the public service. Policies are made, but are not always implemented or enforced; parliamentary bills take an inordinate amount of time before they are enacted; regional and international agreements and covenants are adopted, but are rarely domesticated into national law and are hardly ever implemented; local government councils barely function efficiently and effectively because of deficiencies in the system of decentralisation; there is still overcentralisation of state functioning; and nepotism and corruption appear to go unchecked. Public service accountability is generally acknowledged to be very weak. These persistent challenges limit the effectiveness of the efforts that are being made to improve public service performance and accountability.

Promotion and protection of human rights

115. The CRM found that, even though various covenants associated with the promotion and protection of human rights and liberties have been signed, their domestication and implementation are, like service delivery, quite inefficient and ineffective. As a consequence, women, men, children, the youth, workers, the disabled and other vulnerable people are not able to enjoy their rights fully. Human capacity and institutional constraints were often blamed for this poor state of implementation. Ultimately, the inadequacy of national financial resources was recognised as the main culprit for rendering the good policy intentions unattainable.

Challenges for democracy and good political governance

116. In conclusion, the encouraging gains with regard to democracy and good political governance, which include the consolidation of a constitutional monarchy, re-establishment of civil control over the military and police, electoral reforms, peaceful resolution of political disagreements leading to a negotiated compromise concerning the conduct of electoral competition, and the improvement in political inclusiveness and representativeness, are confronted with complex challenges.
117. There is the lingering threat of internal political conflict that might be fuelled by intraparty and interparty tensions that could distract government from its normal operations. Intraparty fissions manifest in member defections and further splintering of already weak opposition parties. In addition, SADC mediation to resolve interparty disagreements over the allocation of the PR seats for the 2007 elections has yet to be concluded.
118. There is a dominant executive branch of government, which is insufficiently countervailed by a weak Parliament and is not sufficiently held accountable by oversight institutions. The public service lacks capacity and is unable to deliver public services efficiently. Decentralisation is incomplete, suffers from capacity constraints and is characterised by debilitating tensions between the newly established councils and traditional authorities. Public accountability is problematic and there are growing concerns over creeping cronyism and corruption.



119. Although Lesotho has signed or ratified various international agreements, standards and codes, there is a problem as regards domestication, implementation and reporting. This is coupled with backlogs in the passing of bills designed to reform the judiciary. The same applies to the adoption of public policies, which are not necessarily implemented. These factors make the country appear not to honour its commitments.
120. Other challenges emanate from the peculiar geographic and economic situation of Lesotho. The small, externally dependent economy faces the risk of having its democracy and good political governance agenda determined by powerful external forces. Therefore, questions arise regarding the extent to which Lesotho can determine and own its national policies and political practices, and whether the country can resolve the problems of poverty, unemployment and HIV and AIDS in order to foster development. However, the CRM acknowledges the political will and the trust of the Basotho that they can surmount obstacles in their way and develop as a united and prosperous nation.

3.2 Standards and codes

i. Summary of the CSAR

121. The table below lists all the international and regional treaties and conventions that Lesotho has signed.

Table 3.1: List of international treaties and conventions signed by Lesotho

Treaty/convention	Year signed
International treaties	
Charter of the UN (1945)	1966
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	12 November 2001
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (articles 7, 10 and 11 – 1979)	1995
Convention on the Political Rights of Women (1952)	
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)	
Convention on the Rights of the Child (CRC) (1989)	1992
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)	



Treaty/convention	Year signed
International treaties	
Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War (1978)	
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)	
Declaration on the Elimination of Violence against Women (Entry into force: 21 September 1995; initial report overdue since 1996)	
Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1999)	
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)	
Convention on the Rights of Persons with Disabilities (1975)	December 2008
Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)	
International Convention on Population Development (1994)	
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	14 November 1971
International Covenant on Civil and Political Rights (ICCPR) (1966)	6 September 1992 (Entry into force 9 December 1992)
International Covenant on Economic, Social and Cultural Rights (1966)	6 September 1992 (Entry into force 9 December 1992)
Optional Protocol to the CRC on the involvement of children in armed conflict (2000)	6 September 2000
Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (2000) (Initial report overdue since 2005)	24 September 2003
Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999)	



Treaty/convention	Year signed
International treaties	
Rome Statute of the International Criminal Court (1998)	
UN Convention relating to the Status of Refugees (1951)	14 May 1981
UN Security Council Resolution on Women, Peace and Security (2000)	
Universal Declaration of Human Rights (1948)	

Treaty/convention	Year signed
AU and other regional treaties	
African Charter on Human and People's Rights (1981)	28 May 1992
African Charter on the Rights and Welfare of the Child (1990)	29 November 1999
African Platform on the Rights to Education (1999)	
AU Convention on Preventing and Combating Corruption (2003)	
AU Declaration on Democracy, Political, Economic and Corporate Governance (2003)	
Constitutive Act of the AU (2000)	12 March 2001
Declaration and Plan of Action on Control of Illicit Drug Trafficking and Abuse in Africa (2002)	
Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution (1993)	
Declaration on Framework for an OAU Response to Unconstitutional Changes of Governments (2000)	
Durban Declaration on Principles Governing Democratic Elections in Africa (2002)	
Grand Bay (Mauritius) Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999)	2001
NEPAD Framework Document (2001)	
Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)	30 December 1988
OAU Declaration and Plan of Action on Drug Control Abuse and Illicit Drug Trafficking in Africa (1996)	



Treaty/convention	Year signed
AU and other regional treaties	
Protocol relating to the Establishment of the Peace and Security Council of the AU (2002)	30 July 2003
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)	5 November 2004
SADC Declaration on Gender and Development (and its addendum) (1997)	
SADC Declaration on Information and Communications Technology (ICT) (2001)	
SADC Protocol Against Corruption (2001)	
SADC Protocol on Culture, Information and Sport (2001)	
SADC Protocol on Shared Watercourse Systems (1995)	
Solemn Declaration of the AU Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) (2000 & 2002)	
Treaty of the SADC (1992)	

Source: CSAR, 2008.

122. **Note:** This list is incomplete with regard to the dates of signature, ratification and status of implementation of the international treaties and conventions. The CRM was unable to obtain a fully updated status report from the government of Lesotho on the application of these treaties and conventions.

ii. Findings of the CRM

123. The CRM found that Lesotho has signed and ratified a substantial number of international agreements, but that there is a problem with domestication and implementation. The reporting in the CSAR is incomplete, as the register does not indicate the status of implementation of the various agreements entered into.
124. Lesotho has ratified several international treaties and covenants that relate to democracy and good political governance. The principal ones are the Charter of the UN, the Constitutive Act of the AU, the NEPAD Framework Document, and the Treaty of the SADC. Other international agreements entered into cover: the recognition and protection of civil, political and cultural rights; human rights (women, children, racial discrimination, the status of refugees, labour, education, etc.); freedom of political association; war and conflict; crime; corruption; and human trafficking.
125. According to the office of the United Nations High Commissioner for Human Rights (UNHCHR) in Pretoria, South Africa, the human rights ratification and reporting status for Lesotho is as follows:



- *International Covenant on Economic, Social and Cultural Rights*: entry into force: 9 December 1992; initial report overdue since 1994.
 - *ICCPR*: entry into force: 9 December 1992; an initial report was examined in 1999, but periodic reports have been overdue since 2002.
 - *Optional Protocol to the ICCPR*: entry into force: 6 December 2000; no reports required.
 - *Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty*: entry into force as not a state party; no reports required.
 - *International Convention on the Elimination of All Forms of Racial Discrimination*: entry into force: 4 December 1971; periodic reports overdue since 2000.
 - *CEDAW*: entry into force: 21 September 1995; initial report overdue since 1996.
 - *Optional Protocol to CEDAW*: entry into force: 24 December 2004; no reports required.
 - *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*: entry into force: 12 December 2001; initial report overdue since 2002.
 - *CRC*: entry into force: 9 April 1992; initial report examined in 2001, but periodic reports overdue since 2004.
 - *Optional Protocol to the CRC on the involvement of children in armed conflict*: entry into force: 24 October 2003; initial report overdue since 2005.
 - *Optional Protocol to the CRC on the sale of children, child prostitution and child pornography*: entry into force: 24 October 2003; initial report overdue since 2005.
 - *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*: entry into force: 1 January 2006; initial report overdue since 2007.
 - *Convention on the Rights of Persons with Disabilities*: Lesotho became a signatory in December 2008.
126. Lesotho is not yet a signatory to the following international conventions related to human rights:
- *International Convention for the Protection of All Persons from Enforced Disappearance*.
 - *Optional Protocol to the Convention on the Rights of Persons with Disabilities*.
127. As far as regional/continental protocols and treaties related to human rights are concerned, Lesotho is a signatory to the following:
- *OUA Convention Governing the Specific Aspects of Refugee Problems in Africa*.
 - *African Charter on Human and People's Rights*.
 - *African Charter on the Rights and Welfare of the Child*.
 - *SADC Declaration on Gender and Development*.
 - *SADC Addendum on the Prevention and Eradication of Violence against Women and Children*.



- *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.*
- *African Youth Charter (signed, but not ratified).*

128. **Note:** The information above was obtained from the Office of the UNHCHR. The government of Lesotho could not verify the accuracy of the information.
129. The CRM observes that Lesotho has signed the vast majority of international standards and codes pertaining to the promotion and protection of human rights, thereby signalling its intention to deepen democracy and good political governance. *However, the CRM could not obtain the official register and status reports on the ratification and domestication, and implementation into local law, of the various agreements.* The CRM notes that, in many instances, domestication of these international instruments is lagging behind, and, in some instances, the country has indicated formal reservations, as is the case with its accession to CEDAW, to be dealt with in more detail in the section on women's rights (objective 7). Furthermore, reporting on the implementation of international standards and codes is either sporadic or, in many instances, has not been carried out at all.
130. In the CRM's deliberations with various stakeholders, the issues of domestication and implementation were emphasised. It was also noted that the executive retains the authority to conclude international treaties and to take decisions regarding the signature and ratification thereof. There was strong sentiment on the part of legislators that the ratification of treaties excludes Parliament and they consequently suggested that international treaties and conventions be scrutinised by the legislature before they are acceded to by the executive.

iii. Recommendations

131. The APR Panel recommends that:
- International treaties and covenants be subjected to parliamentary scrutiny and discussion before accession. (*Government of Lesotho, Parliament*)
 - Concerted efforts be made to domesticate, into national law, the provisions of international treaties and conventions. (*Government of Lesotho, Parliament*)
 - Capacity be enhanced for reviewing and updating domestic laws in order to ensure that they are in line with the international agreements that the country has acceded to or ratified. (*Government of Lesotho, Parliament*)
 - Serious attempts be made to implement policies, laws and agreements. (*Government of Lesotho, Parliament*)

3.3 Assessment of performance on APRM objectives

132. The CRM assessment of democracy and good political governance examines Lesotho's performance on nine APRM objectives.



Objective 1: Reduce intrastate and interstate conflicts

i. Summary of the CSAR

133. The CSAR recognises conflict as an inevitable aspect of human interaction and as an unavoidable consequence of choices and demands. The underlying factors that have historically raised tension and precipitated violence in Lesotho are reported to be flawed leadership and political intolerance, legitimacy, identity, inequity, and poverty. These sources of conflict overlap and reinforce one another. However, the CSAR identifies political contestation as the predominant source of conflict in the country.
134. The CSAR categorises *intrastate* conflict in Lesotho as follows:
- Political conflict, particularly the election-related disputes that led to large-scale public unrest and violence following the 1998 general elections.
 - Institutional conflict, which has included confrontation between armed state apparatuses and the government, and tensions between traditional governance structures and modern elected institutions.
 - Socioeconomic conflict, which revolves round inequity and access to economic resources and social position.

Political conflict

135. Political conflict in Lesotho has manifested itself in three forms, namely as election-related conflicts, intraparty conflicts, and institutional conflicts involving various elements of the state machinery. These three types of conflict have constituted the major threats to national stability and security, to the extent even of putting national sovereignty in jeopardy.
136. The CSAR observes that *election-related conflicts* have been the most destabilising and have plagued the state since the years leading to the country's independence from Britain in 1966. Results of general elections have invariably generated disputes and tension. Losing parties would habitually reject electoral outcomes, bitterly contesting the legitimacy of the process and electoral institutions and, consequently, the electoral results. The widespread postelection violence of 1998 eventually convinced all stakeholders that the winner-takes-all, FPTP electoral model was not conducive to national stability, was exclusionary and was not representative of the genuine wishes of the electorate. Opposition parties felt marginalised by a pattern of perpetual, ruling-party dominance. For example, in 1993, the winning party (the BCP) won all parliamentary seats with a majority of 67 per cent of the popular vote. Again, in 1998, the Lesotho Congress for Democracy (LCD) (a splinter party and the successor of the BCP in government) won 79 of the 80 seats, albeit with a reduced share of the popular vote.
137. In an effort to manage the conflict inherent in the FPTP electoral system, Lesotho formulated and adopted the MMP electoral model in 2001, which was in a sense a hybrid of PR and the FPTP system in that it combined the constituency vote and party-list vote. The MMP model was first used in the 2002 general elections and immediately promised prospects of a less confrontational



and more representational electoral system. The results of the 2002 general elections replicated the pattern of the 1993 and 1998 elections, with the winning parties dominating. However, the MMP ensured that more than six smaller parties were also represented in Parliament. The new model thus infused the country's Parliament with more diverse political opinion following the national elections.

138. The CSAR states that *intraparty conflicts* reflect the depth of deficiency in terms of internal party democracy in the Kingdom of Lesotho. Founding fathers of political parties tend to become authoritarian and intolerant of dissent and run parties as personal properties. Central party structures assume condescending dominance over branches and disregard the choices and decisions of the branches. Such undemocratic practices precipitate intraparty contestation over leadership, policies, direction and resources. Often, resort is had to the law courts for the settlement of disputes, but the ultimate loser is invariably the party in fragmentation. The CSAR underscores popular opinion that weak, party-conflict management systems are the root causes of continued and increasing conflicts that often spill over into the social sphere and degenerate into national crisis.

Institutional conflict

139. The CSAR identifies three types of institutional conflict. The first is the conflict between armed state apparatuses – essentially the Lesotho Defence Force (LDF) and the Lesotho Mounted Police – and the government. The sources of the tension between the security services and the government can be traced back to the extensive politicisation of the security services during the 27 years of authoritarian under the BNP regime (1966–1986) and the military (1986–1993). Civil control over the military during the first phase of redemocratisation from 1993 to 1998 was problematic. The postelection conflict of 1998 provided the spark for a mutiny that involved the kidnapping and murder of government officials, including Deputy Prime Minister Selometsi Baholo, and the humiliation of the senior command by the rank and file. However, the security sector reforms initiated in both the military and the police have generally reduced the threats to national stability emanating from this type of institutional conflict.
140. The second form of institutional conflict occurs between elements of the public service and the government. Again, such conflicts are rooted in the politicisation and mismanagement of the civil service during the civil authoritarian and military regimes.
141. The third manifestation of institutional conflict has been the tension between traditional governance institutions, that is, the chieftaincy system, and the new local government structures. The powers and the role of the democratically based local governance structures appear to have generated a sense of alienation, marginalisation and insecurity on the part of some of the chiefs. The competition for power, resources and the support of communities between chiefs and elected council officials has the potential to degenerate into conflict and thereby constitutes a source of destabilisation.

Socioeconomic conflict

142. Socioeconomic deprivation, or poverty, and inequity constitute the crux of structural internal conflict. Factors identified by the CSAR as contributing to the structural sources of conflict include



overpopulation, lack of arable land and a high level of unemployment. Furthermore, historical dependency on income from migrant labour has come at considerable social cost and has led to considerable sociopolitical instability; rural societies are bereft of men (especially fathers), thus creating rural societies of women, children and old people.

143. Poverty and a lack of alternative job opportunities, apart from those in the public sector, have produced political elites that consider politics as a survival contest; election defeat consigns one to the ignominy of unemployment and a qualitative loss of livelihood and status – hence the bitterness of intraparty conflict, the elite’s vicious struggle for power and the consequent negative impact on national stability.

Interstate conflict

144. The geostrategic realities of the Kingdom of Lesotho, which is completely surrounded by the Republic of South Africa, a predominant political, economic and military power in Africa, certainly rule out violent interstate conflict between the two countries. The CSAR therefore focuses on threats to national security and stability generated by cross-border and international organised crime. Such crime includes stock theft, car theft, fraud, drug trafficking, human trafficking and the proliferation of arms. However, since Lesotho and South Africa cooperate in combating cross-border criminal activity, this issue has not been a source of interstate conflict.

Assessment of conflict management institutions and practices

145. The CSAR deplores the loss of Lesotho’s traditional conflict management practices and institutions and suggests that efforts be made to restore and revive them. In particular, the traditional role of chiefs in preventing and managing conflicts in their communities must be enhanced.
146. While the CSAR recognises the positive contribution of regional and continental bodies, particularly the SADC, in managing Lesotho’s intrastate conflicts, much still needs to be done to maintain peace and stability in the region. The member states within the SADC should cultivate the political will to apply regional principles and procedures to the management of conflict. Further, it is crucial for the SADC to develop and strengthen member states’ institutions for the purpose of early warning and conflict management.

ii. Findings of the CRM

147. The CSAR conceives of conflict as an inevitable aspect of human interaction. The CRM shares this concept of conflict, but expands it further in order to fully appreciate the dynamics of conflict in Lesotho. Conflict is very much a part of the normal politics of the state; it is ubiquitous, and it is continuous. Since conflict is a part of the normal politics of the state, the process of governance may be seen essentially as one of conflict management. Governing a state is thus basically the continual effort to deal with ordinary conflicts among groups and their demands that arise as society plays its role in normal politics.
148. In this sense, political conflict is the interaction of different and opposing perceptions, aspirations and goals. It is when conflict remains unmanaged, is mismanaged or is exploited by entrepreneurs



of violence that it escalates, leading to a blockage of the process of governing, to a widening split between state and society, to the withdrawal of the allegiance of some groups, and to outbreaks of violence.

149. The potential for normal political conflict to degenerate into violence is greater in the fragile environment of relatively new democracies. In such a fragile environment, violent conflicts are invariably the result of the failure by the political elite to manage differences and divergences within the political system through negotiations, coalitions, pacts, and informal as well as formal practices of governing, including accommodative practices. The struggle for power and the perquisites of power often lead to political-class factionalism, fragmentation and violence. This is the context of conflict in Lesotho.

Political conflict

150. The CRM validates the contention of the CSAR that flawed leadership by the political elite is the root cause of both intraparty and interparty conflict in Lesotho. Conflict results from the intense rivalry among the political elite over access to state power and resources in the context of poor resource endowment and the lack of a vibrant and productive private sector. Thus, the electoral contest becomes a bitter zero-sum struggle, since electoral defeat could mean a loss of livelihood. This is confirmed by the lamentation of a member of the political elite: "I took a risk and impoverished myself." The intense rivalry of the elite has led to the fragmentation and multiplication of political parties, 20 of which are officially registered. In its consultations with the IEC, the CRM found that a party is required to contest a minimum of 10 parliamentary seats for it to be considered for the share of compensatory proportional seats. This, it is hoped, will have the effect of reducing the number of political parties in the country.
151. It is this context of bitter rivalry of the elite, and of what is now seen as a flawed electoral system (the FPTP system), that eventually plunged Lesotho into violent conflict following the 1998 general elections. The BCP, the BNP and the MFP disputed the landslide victory in the electoral race by the ruling LCD. The LCD had won 79 out of 80 parliamentary seats, leaving one seat to the BNP. The protestation over the electoral outcome underscored the BCP's bitterness that the LCD had broken away from it and had formed a government following the party split of 1997. Following the floor crossing by members of the LCD, the BCP suddenly found itself in opposition, although it had won the 1993 election. This generated animosity, which still persists between the BCP and the LCD. Thus the challenge regarding the LCD election victory in 1998 coalesced with the BCP's political challenge of the legitimacy of the LCD regime following the 1997 split.
152. Protest demonstrations by the opposition parties gravitated to violent encounters between the ruling party and the three opposition parties, which had formed an alliance to dislodge the ruling party even before the election. Internal and external initiatives designed to seek peaceful resolution of the conflict proved futile. Consequently, the government invited intervention from Botswana, Mozambique, South Africa and Zimbabwe. South Africa intervened promptly and was later joined by Botswana. Ultimately, the Lesotho conflict was resolved both through military intervention and negotiation. External military intervention was meant to quell the riots and to neutralise the army as well, which was seen to have pinned its sympathies with the opposition alliance.



153. The lengthy negotiations culminated in the formulation and adoption of the MMP electoral model in 2001, which combined both the PR and FPTP system. However, the application of the MMP model is now in dispute, with the opposition parties charging that the ruling party manipulated the application of the system to the disadvantage of the opposition in 2007.

Socioeconomic conflict

154. With regard to socioeconomic conflict, stakeholders stated that there are structural conditions that constitute a threat to the security and stability of the country. Some of these structural conditions are economic deprivation and inequity, overpopulation, a lack of arable land, high unemployment and the lack of institutional capacity or process to manage political and social conflict. The social instability resulting from structural conflict can adversely affect good political governance and development in Lesotho should the government be diverted from its normal functions in order to concentrate on resolving the instability.

Institutional conflict

155. Civil control of the military was very problematic during the early years of the country's return to democratic rule in 1993. In January 1994, factions within the military locked horns in a violent conflict which, among other things, resulted in the assassination of the deputy prime minister in April of the same year. Disturbances within the National Security Service (NSS) and the strike by the police in May and June 1994 over salary increases also created a general climate of instability. Later, in February 1997, a mutiny ensued within the police force, leading to a violent encounter between factions within the force and to intervention by the army.
156. The LDF in its current form is the result of a metamorphosis of the security force bequeathed by the British colonial power in 1966. The security force initially evolved as a paramilitary police force styled the Police Mobile Unit (PMU) in the 1960s. The PMU was transformed into the Lesotho Paramilitary Force (LPF) in 1980, but was subsequently converted into a defence force proper during the course of the 1980s and became known as the Royal Lesotho Defence Force (RLDF) and currently as the LDF. Not long after becoming a defence force proper, it seized the reins of state power in 1986 and ruled till 1993, when a democratic dispensation was reintroduced.
157. Security sector reform of the military actually began with section 146 of the 1993 constitution, which established the LDF "for the maintenance of internal security and the defence of Lesotho". On 29 March 1996, the prime minister, as the minister of defence and national security, introduced a bill in Parliament which amended the 1993 constitution in order to provide more effective and efficient governance machinery for the LDF. Thus section 146 of the constitution was amended accordingly. The basic essentials of the amendment are as follows: the prime minister as the head of government has the power to determine the operational use of the LDF; powers of command are vested in the commander of the LDF; and the appointment and removal of the commander of the LDF rest with the king as head of state and constitutional monarch, acting on the advice of the prime minister as the head of government.
158. The above constitutional arrangements are buttressed by enabling legislation, namely the LDF Act of 1996, which further rationalises the governance of the military in line with the evolving democratic



dispensation in the country. The Act is consistent with the overall constitutional provisions as outlined above. However, the Act further clarifies command, control and administration, defines the role of the commander much more clearly, and underscores civil control of the military.

159. Civil control of the military is provided for in the following operational provisions:
- The deployment of the military rests with the king, acting on the advice of the prime minister.
 - The defence force shall be employed in defence of Lesotho, for the prevention or suppression of terrorism and internal disorder, for the maintenance of essential services, including maintenance of law and order, for the prevention of crime, and for such other duties as may be determined by the prime minister and minister of defence and national security from time to time.
160. The Act also establishes the Defence Council, whose responsibilities include making recommendations to the Cabinet on the formulation and implementation of defence policy.
161. The commander's role is spelt out as comprising:
- Command and control.
 - The maintenance of proper discipline.
 - The improvement or simplification of organisation, methods and procedures.
 - Securing the most economic and efficient utilisation of the resources provided for the maintenance of the defence force.
162. The commander is duty bound to report regularly to the prime minister and the minister of defence and national security on all matters under his charge relating to both operational and policy issues concerning the defence force.
163. Events were later to indicate that this security sector reform by way of legal provisions would not be effective. The politicisation of the security services during the 27 years of authoritarian rule (1966–1986) and military rule (1986–1993) was so entrenched that it seemed the legal framework could not effectively establish civilian control over the military. The military was suspected of sympathising with the opposition alliance during the 1997 political crisis following the LCD split from the BCP and the latter's assumption of power through parliamentary floor crossing. The military mutinied during the 1998 postelection violence, kidnapping and murdering government officials and humiliating the senior command.
164. Consequently, it became necessary to launch the second phase of security sector reform in a more operational manner. First, the government invited foreign military assistance for the purpose of restoring security and stability, since the military of Lesotho had mutinied. It may be recalled that, following a series of crises, a Memorandum of Understanding (MoU) was signed in September 1994 which, among other things, recognised South Africa, Botswana and Zimbabwe as the guarantors of Lesotho's democracy on behalf of the SADC.



165. South Africa led the intervention and later trained a contingent of company strength (about 100 officers and soldiers) in South Africa as part of the professionalisation of the military. The CRM was informed that an Indian Army training team has been involved with the reform and professionalisation of the LDF since 2001. The CRM further learnt from authoritative and other sources that the still ongoing security sector reform has redressed the politicisation of the military and has enhanced the military's professionalism.
166. The CRM also learnt that civil–military relations have improved as well. The public perception of the military is positive, since the latter has been undertaking civic operations in communities. For instance, the military has been building schools, clinics and foot bridges in rural communities.
167. The return of a democratic dispensation in Lesotho after the 1993 general elections also presented the government with a number of challenges, including the reform of the Lesotho Mounted Police and its transformation into a service. The reform process within the police service started in earnest in 1996 and culminated in the enactment of the Police Service Act of 1998, which makes provision for the organisation, administration and discipline of the police service and other related matters. The Act establishes a Police Authority, which is the minister of home affairs and public safety, and of parliamentary affairs, and which is accountable to Parliament. The Act further establishes a Police Directorate in the office of the minister to assist the latter to carry out his functions under the Act. The Act requires that, before the beginning of each financial year, the Police Authority issue a policing plan that sets out proposed arrangements for the policing of Lesotho during that year.
168. The commissioner of police, on the other hand, is directed by the Act to develop and keep under review a strategic plan of the police service over a period of five years and the proposed reforms to achieve results. Additionally, at the end of each financial year, the commissioner is expected to prepare a report on the policing of Lesotho for that year. This report is required in order to assess fully the extent to which the policing referred to above has been carried out. This report is forwarded to the Police Authority, which has to submit such report to Parliament within 15 days of receipt thereof from the commissioner. Within the framework of the reform programme, the police service has prepared and is implementing the provisions of the following documents, which documents were shared with the CRM:
- Strategic Plan for 2006–2009.
 - Crime Management Strategy 2007–2009.
 - Communications and Media Strategy.
 - Service Charter, which sets out the minimum standards of service delivery so as to serve as a guide to both members of the public and the police.
169. The police service has also established a Child and Gender Protection Unit.
170. In spite of these commendable reform efforts, the CRM, in its interaction with various stakeholders, found that public confidence and trust in the police are still low. The police still have some challenges to overcome in this area.



Best practice 3.1: Security sector reforms

Security sector reforms involved the establishment of civil control of the military and the police, in line with the re-establishment of a democratic order from 1993.

A 1996 constitutional amendment gave the head of government, the prime minister, powers to determine the operational use of the LDF, operational command was vested in the commander of the LDF, and the appointment and removal of the commander of the LDF were vested in the king as head of state and constitutional monarch, acting on the advice of the prime minister. The LDF Act of 1996 rationalised the governance of the military in line with the evolving democratic order, clarified the command, control and administration functions of the commander, and emphasised civil control of the military. Appropriate training of soldiers accompanied these reforms, with the aim of depoliticising and professionalising the LDF.

The reform of the police also started in 1996 and the Police Service Act of 1998 provided for the organisation, administration and discipline of the police service. The Act established a Police Authority, which would be accountable to Parliament, established a Police Directorate and required the commissioner of police to develop and keep under review a five-year strategic development plan. The police service is currently implementing the Strategic Plan for 2006–2009, the Crime Management Strategy 2007–2009, a Communications and Media Strategy, and a Service Charter, which sets out the minimum standards of service delivery. The police service has also established the Child and Gender Protection Unit.

Source: CRM Findings.

iii. Recommendations

171. The APR Panel recommends that Lesotho:

- Develop a comprehensive national peace architecture that includes structures and institutions for managing national-, district- and community-level conflicts. This should include the local churches, traditional authorities and other nonstate actors. (*Government of Lesotho, traditional leaders, political parties, IEC*)
- Strengthen the capacity of chiefs for modern leadership and conflict management, taking into account the efficacy of traditional conflict management systems. (*Government of Lesotho, traditional leaders, political parties, IEC*)
- Initiate strategies and training in order to build capacity and mainstream women and the youth in conflict prevention and management. (*Government of Lesotho, traditional leaders, political parties, IEC*)
- Strengthen the capacity of political parties for managing conflicts, and develop strategies and deepen capacity for interparty dialogue, negotiation and consensus building. (*Government of Lesotho, traditional leaders, political parties, IEC*)



- Strengthen the capacity of the IEC for managing conflicts, and continue with negotiations to refine the MMP and obtain the consensus of stakeholders. (*Government of Lesotho, traditional leaders, political parties, IEC*)
- Develop a code of conduct for political parties so as to redress the problem of intraparty and interparty conflicts. (*Government of Lesotho, traditional leaders, political parties, IEC*)

Objective 2: Promote constitutional democracy and the rule of law

i. Summary of the CSAR

172. The 1993 constitution of Lesotho is the supreme law of the country and stipulates that all other laws should be consistent with it.

Political competition and opportunity for choice

173. The critical questions are: whether Lesotho's political system allows free and fair competition for power; to what extent the practice of government is based on the supremacy of the constitution and the rule of law; whether there is a separation of powers among the executive, legislative and judicial branches of government; and whether the institutions of governance are effective. The codes and standards regarding political competition and opportunity for choice are provided for in the ICCPR, which covenant has been signed and ratified by Lesotho. The constitution of Lesotho provides for the protection and promotion of fundamental human rights and freedoms. Freedom of assembly, association, expression and participation in government are entrenched in the constitution and are provided for in specific electoral laws. The Societies' Act of 1966 governs the formation and registration of political parties, of which there were 19 at the last elections (14 actually participated). The National Assembly Election Order of 1992 recognises the rights and responsibilities of political parties and provides for an Electoral Code of Conduct. The IEC administers periodic elections, which are scheduled to be held every five years.

The electoral system and political competition

174. There is general consensus that the MMP electoral system that has been used since the 2002 elections has been effective in reducing tensions between political parties and their supporters. It has improved political inclusiveness and the representation of small parties in Parliament and has enhanced the legitimacy of the ruling party. The reformed electoral system has also brought relative peace and stability to the country.

Supremacy of the constitution and the rule of law

175. There are a number of institutions that are supposed to safeguard constitutional government and the rule of law. These include the National Assembly, which is supposed to represent the electorate, enact laws and exercise oversight over the policies and actions of the executive and the judiciary through parliamentary portfolio committees and a Public Accounts Committee (PAC). The Office of the Ombudsman, the Office of the Auditor General (OAG), the PSC, the DCEO and the



Police Complaints Authority are supposed to ensure administrative fairness, the rule of law and public accountability. The judiciary is supposed to interpret the laws and administer justice.

176. The CSAR is silent on the assessment of the supremacy of the constitution and the rule of law. Nevertheless, the CSAR notes several weaknesses in some of these institutions. For example, the ombudsman's reports are said to have never been tabled for parliamentary discussion since 2003, and the auditor general is reported to have a huge backlog of auditing.

Decentralisation and popular participation

177. Vision 2020 and the National Poverty Strategy provide the basic principles of decentralisation for the purpose of national development. The principal objectives of decentralisation are to promote participatory democracy and efficient service delivery. The current decentralisation process started with the enactment of the Local Government Act of 1997 and the Local Government Elections Act of 1998. Democratic local government elections were held in 2005. In April 2005, a total of 128 community councils and one municipal council were elected. There are also 10 district councils comprised from the 128 community councils. The 2005 local government elections were characterised by a low turnout of only 25 per cent of registered voters and therefore did not extend popular participation.
178. The District Planning Unit (DPU), which is composed of technical representatives of the central government ministries in the district, assists the community councils in planning development projects. The district administrator is the secretary to the District Development Coordinating Committee (DDCC), whose responsibility it is to consolidate the community development plans into a district development plan and approve it. The committee consists of representatives from the district council, community councils, chiefs and civil society. The DPU and DDCC thus provide the councils with technical support and services. However, the integration of communities in the planning processes is weak, if not nonexistent.
179. As already indicated, the local councils were established fairly recently, in 2005. They continue to experience inadequate human resource capacity. They have scant local revenue and are largely dependent on central government grants. They are therefore constrained in effectively discharging their functions and delivering public services.

Local councils and traditional leaders

180. The 1993 constitution legitimises the coexistence of the chiefs and local councils. The traditional hierarchy has the following order: principal chiefs (22), ward chiefs, area chiefs and village headmen. Chiefs perform administrative functions within areas of their jurisdiction. Within the central government, they fall under the Ministry of Local Government and Chieftainship (MoLG).
181. The principal chiefs have powers conferred on them by the constitution of Lesotho. They constitute the College of Chiefs, whose responsibilities are to decide on succession to the monarchy, serve as ex officio senators in the upper house of Parliament and maintain the national archives. The powers of the chiefs are defined in the Chieftainship Act of 1968, sections 6 and 7, and include: supporting, aiding and maintaining the king and his government; serving and promoting the welfare of people in their areas of authority; maintaining public order and safety; preventing crime; and the administration of justice.



ii. Findings of the CRM

Political competition and opportunity for choice

182. The CRM found that the Lesotho political system allows free and fair competition for power. There is political will for democratisation and, overall, there is freedom of association, except in the case of civil servants, who are barred from joining trade unions or unionising. There were 19 political parties registered at the time of the 2007 elections, although only 14 chose to participate. There were 20 registered political parties in April 2009.
183. The stakeholders who were consulted did not complain of any restrictions on their freedom to elect whoever they chose. There are neither any obvious constraints on the formation and operation of political parties, nor restrictions on voters' choices.

The electoral system and political competition

184. The findings from the CRM stakeholder consultations reveal that there is general appreciation that the IEC and the MMP model worked well in 2002. However, manipulation of the MMP system by the big parties during and after the 2007 elections was seen to have undermined the electoral system. This notwithstanding, it is generally agreed that there were not any breaches of the law.
185. The independence of the IEC and the need to improve the MMP electoral model are the two most important issues that stakeholders raised. The CRM noted that concerted efforts are being made to draft legislation that will make the IEC more autonomous as a statutory body rather than a government department. The IEC is also consulting with all political parties represented on the IEC Law Committee to devise policies and procedures that will pre-empt postelectoral disagreements. Among the proposals are a prohibition on a candidate registering on more than one party list, the requirement that all candidates should stand on party lists (prohibition on independent candidature), the requirement that every party must contest a minimum of 10 seats to qualify for the PR compensatory seats, and a proposed legislative amendment to make it mandatory that election dates be decided on only after consultations between the government and the IEC.
186. The CRM heard quite favourable views of the MMP electoral system. The system was appreciated for having brought peace to the country, since it allowed the accommodation of the opposition. It was thus seen to have encouraged more inclusiveness and representativeness in the National Assembly. A comparative examination of the actual election results from 1993 to 2002 shows that there was indeed a broadening and diversification of representation in the National Assembly. Whereas the BCP won 74.7 per cent of the vote in 1993, it captured all the parliamentary seats. In 1998, the LCD won 60.7 per cent of the vote and 79 out of 80 seats, leaving the BNP, which had 24.5 per cent of the vote, with only one seat. Meanwhile, most of the smaller parties were allocated some seats when the MMP system was used for the first time in 2002. (Refer to table 3.2).



Table 3.2: Election results and distribution of National Assembly seats in 1993, 1998 and 2002

Year	Parties	Percentage of votes	Seats won	Total seats
1993	BCP	74.7	65	65
1998	LCD	60.7	79	80
	BNP	24.5	1	
2002	LCD	54.8	77	118
	BNP	22.4	21	
	Basutoland African Congress	2.9	3	
	BCP	2.7	3	
	Lesotho People's Congress (LPC)	5.8	5	
	National Independence Party (NIP)	5.5	5	
	Lesotho Workers' Party	1.4	1	
	MFP	1.2	1	
	Popular Front for Democracy	1.1	1	
	National Progressive Party	0.7	1	

Source: APRM Background Paper on Lesotho.

187. The CRM heard some criticism of the MMP electoral system, mostly regarding the use of a dual ballot, one for the 80 constituency seats where the FPTP election system applies, and another for the 40 national or PR (compensatory) seats. The dual ballot was seen as the loophole that allowed electoral manipulation through the formation of informal alliances that undermine the MMP electoral system.
188. Although there was such criticism of the MMP electoral system, the general impression was that stakeholders do not blame the IEC for bad electoral administration. Additionally, there were not any suggestions for an alternative electoral system to replace the MMP system. Overall, there appeared to be general agreement on the positive attributes of the system, which nevertheless requires fine-tuning as regards its operations. The cause of the post-2007 election squabbles was attributed to dominant-party opportunism and bad faith. Stakeholders thus called for the introduction of a single ballot in order to eliminate the loophole.

Supremacy of the constitution and the rule of law

189. The supremacy of the constitution was not doubted by any of the stakeholders consulted. There was widespread concurrence that the coexistence of the monarchy and the Western-style state system should be preserved. Indeed, the consolidation of the constitutional monarchy is a manifestation



of the desire of the Basotho to preserve the traditions, culture and values that unify the Basotho nation.

190. As regards the supremacy of the rule of law, stakeholders expressed the view that Parliament should have a greater role in oversight over the conduct of government. For example, the ombudsman, the auditor general, the DCEO and such other bodies ought to be reporting to Parliament (as the direct representative of the electorate) rather than through the executive. Parliament also does not have any say in ratifying the appointments of the key state functionaries and ambassadors, for the executive monopolises these appointments. The general consensus among stakeholders was that parliamentary oversight over the executive would be greatly enhanced by introducing changes in the reporting and ratification processes mentioned above.
191. Stakeholders stated that the executive is very dominant in the governance of the country. The National Assembly is weak and has limited countervailing mechanisms to check the executive effectively. Likewise, the Senate also cannot hold the executive to account and has limited effectiveness in exercising oversight over it. The Senate reviews bills emanating from the National Assembly, but cannot initiate such bills, and it moreover has a very limited role in the national budgeting process. Like the National Assembly, the Senate is also not involved in the scrutiny and discussion of treaties and international agreements before they are signed.
192. The Council of State is regarded as a key organ of governance, yet it comprises a number of public servants who are not elected officials. Stakeholders urged that this state of affairs be changed in favour of greater representation by elected officials and other nonstate stakeholders in order to reflect the realities of contemporary Lesotho.

Decentralisation and popular participation

193. The CRM confirmed that there is quite a strong political will to implement decentralisation. The government has set up a specific directorate to deal with the decentralisation process in the MoLG, whose remit includes human resource development, land surveys, land use and physical planning, and engineering and construction. Currently, the Directorate is working on a Framework and Action Plan to guide decentralisation programmes.
194. Although the Local Government Act of 1997 provided for functions in schedules I and II of the Local Government Act 1997 (as amended) to be assigned to the district and community councils, the decentralisation exercise requires sustained efforts in order to become fully institutionalised. For instance, the local councils are vested with powers to generate revenue and impose levies and taxes, but they have yet to achieve this. The councils are supposed to be audited annually. However, this is yet to happen. Frequent comments were made about the shortcomings of the decentralised state structures and local government in the provision of services. A number of stakeholders pointed to the need for human-capacity development and for adequate resources in order to make a success of decentralisation initiatives. It was also evident from the consultations that, apart from participating in local elections, there was little stakeholder participation in the decentralised structures. What was notable was a stakeholder observation that, although the local elections of 2005 returned proportionately more women representatives to local councils, their levels of participation in deliberations in those councils had not improved, leaving men as the principal decision makers.



Local government and traditional leaders

195. The stakeholder consultations paid a lot of attention to local government, which was regarded by a number of stakeholders as a 'thorny issue'. Reference was made to the constitution, the Chiefs Act of 1968 and the Local Government Act of 1997. Two main complaints were expressed everywhere. The first was that the national government has not made adequate resources available to local government; hence the comment that the "the purpose was good, practice not". Although the councils are permitted to generate local revenues from rates and other activities, this is often not viable. Therefore, the councils depend entirely on central government grants. The stakeholders thus stated that local councils cannot function appropriately because they do not have adequate financial resources and lack human capacity.
196. The second complaint referred to the tension between traditional authorities and local government councillors, which tension was attributed to the lack of a clear definition of the duties and responsibilities of local government. Two chiefs, nominated by the other chiefs, are represented on the community and the district councils. However, some chiefs accused the councils of encroaching on the authority and responsibilities of traditional leaders in the allocation of land. Some stakeholders further alleged that certain councillors disrespected the chiefs and Basotho tradition. The other issue was the perceived low capacities of the councillors and suggestions were made that they needed a lot of training. Interestingly, there were also strong sentiments that the chiefs also required capacity development.
197. The CRM observed that there appears to be confusion over the definition and boundaries of the functions, responsibilities and roles of the chiefs and of community and district councils. There is also similar confusion regarding public servants and councillors within the councils. There is indeed tension in some localities between local councils and the chiefs. In the words of one stakeholder, "The councillors appear to be elevated, although the chiefs are the governors." There is slow implementation of projects where such tensions exist and stakeholders called for solutions to be found as soon as possible. Most of the time, they stated that training of both the councillors and the chiefs could ameliorate such tension, as the two groups would better understand their respective roles and would work together cooperatively.
198. The root of the confusion appears to be the noncongruence of the 1968 Chieftainship Act and the 1997 Local Government Act. The Chieftainship Act gives the power of land allocation to the chiefs, whereas the Local Government Act gives the functions of land and site allocation to the councils. The section dealing with land allocation in the Chieftainship Act was not amended or repealed when the Local Government Act was adopted; hence both the chiefs and the councils have the function of allocating land. However, the CRM was told that the Village Development Order of 1979 had already revoked the power of the chiefs to allocate land and that it was therefore unnecessary for the Local Government Act to repeal the same. Nevertheless, the CRM was unable to verify this, because the order could not be found.



Best practice 3.2: Constitutional monarchy

The constitution of Lesotho of 1993 established the constitutional monarchy. This was affirmation of the trust and reverence that the Basotho have for their traditional form of governance, as well as a display of confidence that it can coexist with a state system derived from foreign influences.

Chapter I of the constitution entrenches it as the supreme law of the land of the Basotho kingdom.

Chapter V defines the powers, functions and responsibilities of the king in the democratic dispensation and clarifies the procedures for succession, regency and the functions of the College of Chiefs. There are sections that also determine the remuneration, taxation and other procedural arrangements for the functioning of the Office of the King.

Chapter VI, which deals with Parliament, defines the inclusion and functions of the king in Parliament, thereby specifying the role of the king in legislative matters. Further, section 83 of the same chapter deals with the role of the king in the prologue and dissolution of Parliament.

Chapter VIII, which deals with the executive, specifies the king as the executive authority and defines the relationships of the king with the prime minister, Cabinet and other state agencies, including the Council of State.

Source: Constitution; CRM Findings.

Best practice 3.3: Electoral system reform

The IEC was established subsequent to a constitutional amendment in 1997. It is responsible for the administration of elections for the National Assembly and local government, as well as for referendums.

In 2002, an MMP system was adopted after substantial consultations among political parties and other stakeholders. The system combines the constituency elections for 80 members of Parliament elected on the FPTP basis and a PR compensatory system for 40 members. The negotiated compromise is highly regarded for having affirmed the maturity of the Basotho in finding their own solutions to political conflict. The process has improved interparty dialogue, has encouraged inclusiveness and broader representation in the National Assembly, and has generally brought about relative peace.

Source: CRM Findings.

iii. Recommendations

199. The APR Panel recommends that Lesotho:

- Adopt a single-list ballot for both the constituency and the PR components of the general elections. (*Government of Lesotho, IEC, international cooperating partners*)
- Review the decentralisation process with the objective of identifying measures that could expedite it and provide certainty regarding its direction. (*Government of Lesotho, IEC, international cooperating partners*)



- Review the Local Government Act of 1997 (as amended in 2004), particularly with regard to the allocation of land and the functions of the chiefs. A compromise arrangement would be to restore fully the chiefs' allocation functions within the context of the new councils. This could be done by having the chiefs preside over the councils' land-allocation sessions. The councils would provide technical services, including a secretariat, land surveying and the registration of title, once the decisions on land allocation have been made. (*Government of Lesotho, IEC, international cooperating partners*)
- Commit adequate financial resources in the public budget for the capacity building of the local councils. (*Government of Lesotho, IEC, international cooperating partners*)
- Strengthen the oversight agencies. This could require procedural changes such that the Office of the Ombudsman, the OAG, the DCEO and the Police Complaints Authority report directly to Parliament in order to enhance the oversight role with regard to accountability of the legislature and the executive. (*Government of Lesotho, IEC, international cooperating partners*)

Objective 3: Promote and protect economic, social and cultural rights, and civil and political rights

i. Summary of the CSAR

200. The CSAR provides a comprehensive overview of the human rights regime in Lesotho, including the measures available to enforce various rights. Lesotho's human rights regime consists of the following:
- International treaties and conventions.
 - Regional treaties and conventions.
 - The constitution of Lesotho (1993).
 - National laws, including statutes, common law and customary law.
201. The constitution contains a bill of rights (chapter II), which covers justiciable civil and political rights, and a section (chapter III) on nonjusticiable economic, social and cultural rights entitled 'Principles of State Policy'.
202. The CSAR notes some reservations concerning the rights of freedom of expression and of association. As regards freedom of expression, concern is expressed that the country does not have freedom-of-information legislation, but relies on archaic laws that "greatly hamper the media in their efforts to obtain information and report freely on the activities of government". Furthermore, journalists are afforded no constitutional protection with regard to the maintenance of confidentiality of their sources and the Internal Security Act criminalises nondisclosure of information in certain circumstances.



203. The Public Service Act 1 of 2005, passed in terms of section 16 (c) of the constitution, restricts the association of public servants and prohibits them from forming trade unions, though they are free to join associations under the Societies' Act 20 of 1966. Such associations do not enjoy the same rights and advantages as trade unions formed in the private sector.
204. The constitution (section 12) guarantees citizens right of access to justice and legal aid and provides for fair hearings within a reasonable time in criminal and civil cases. However, the CSAR points to a serious case backlog, though attempts are being made by way of case-dismissal hearings to address the problem. Another measure to ensure 'justice within a reasonable time' is the Speedy Court Trials Act 9 of 2002, which provides for the speedy prosecution and resolution of cases within three months.
205. Citizens' rights to participate in issues of government and in public life are protected by sections 20 and 20 (1) of the constitution, as are the right to participate directly or through chosen representatives and the right to vote or stand in elections under a system of universal and equal suffrage and secret ballot. Multiparty representation is guaranteed under the MMP representation model instituted by the National Assembly Election Amendment Act of 2001. The MMP system has been in operation since 2002 and has broadened the representation of political parties dramatically. The local government elections of 2005 further ensured a broadening of representation through decentralisation.
206. Although cultural, social and economic rights in Lesotho are, with some exceptions, nonjusticiable, a wide range of policies is aimed at providing for these rights as embodied in the concept 'basic needs', including health, education and housing, as well as access to employment, water and sanitation. The bill of rights in the constitution protects religious rights, whereas education is constituted under 'Principles of State Policy'. The CSAR notes that, in its country-wide citizen review, education was overwhelmingly considered to be a fundamental human right.
207. The Primary Education and Education for All Policy of 2000 provides for access to education for all children. Currently, an Education Draft Bill (2008) is being developed in terms of which primary education will be free and compulsory.
208. As for access to health, the citizen survey conducted during the self-assessment period pointed to a general perception among citizens that government does not deliver effective health services, despite the fact that primary health care has been made free at all government clinics. According to the CSAR, this situation might improve once the renovation and construction of new health clinics throughout the country have been completed through the Lesotho Millennium Challenge Corporation (MCC) Compact Project. Specific mention is made in the CSAR of young people experiencing "the worst reproductive health because of inadequate knowledge or reproductive health issues and human sexuality, lack of access to reproductive health services and exposure to gender-based violence and sexual exploitation".
209. Access to clean water is considered to be reasonable, whilst access to sanitation is limited among poorer households. These issues are discussed in greater detail in chapter 6 of this report.
210. Another area in which little has been achieved is that of victims' rights. Specific problems pointed out in the CSAR are that existing legislation does not address the rights of the victim at the stage



of reporting the crime and does not specify the duties of those to whom the crime is reported, and that there is no witness protection system in place.

211. The CSAR points out that a range of bills and policies “are long overdue” and in need of enactment and adoption in order to fully protect and realise the full implementation and enjoyment of human rights in Lesotho. Bills and policies specifically mentioned in the CSAR are the following:
- Child Protection and Welfare Bill 2000.
 - Draft National Disability Policy.
 - Proposed HIV and AIDS Bill.
 - Proposed Domestic Violence Bill.
 - Draft Penal Code 2002.
212. Lesotho does not have a human rights commission in place to investigate human rights abuses and to coordinate the work of similar institutions.
213. In conclusion, the CSAR points out that there is a need for compliance with ratified regional and international human rights instruments, as well as for the domestication of such provisions. In addition, little if any reporting is undertaken in respect of these instruments in accordance with international obligations.

ii. Findings of the CRM

214. Although there is an unavoidable overlap between general human rights issues and more specific issues such as gender, children and young people, and the rights of vulnerable groups, the CRM has, as far as possible, disaggregated these components of Lesotho’s human rights regime in order to fit its findings into the specific objectives covered by the APRM. With reference to human rights, the CRM has noted both specific and general concerns.
215. With reference to specific concerns regarding the implementation, protection and promotion of human rights in Lesotho, the stakeholder deliberations pointed to the need for the government to address shortcomings as far as the rights to information and of association are concerned.
216. As mentioned in the CSAR, citizens, and especially the media, have rather limited access to information. This situation was confirmed during stakeholder meetings. In addition, it became clear that journalists’ right to protect their sources of information was being curtailed. One argument given in favour of the status quo was that “journalists were not responsible” and that it was therefore not possible to introduce legislation and/or measures to address these lacunae. However, freedom of the media (and of the general public) to information, as well as the right to protection of sources of information, is considered to be part and parcel of a healthy and vibrant democracy. The government might consider such legislation and measures in conjunction with the development of a code of conduct for the media. Such a self-regulating process, together with the opportunity to legally prosecute irresponsible media coverage (which is already in existence), might go some way towards developing a healthy media culture in the country and ensuring that



basic human rights are protected, whilst those who enjoy these rights are also held accountable to their audience and government. It should be noted that, overall, the media in Lesotho is considered to be free of direct government intervention.

217. The prohibition against civil servants forming, or belonging to, trade unions has been identified as another shortcoming in the human rights regime of Lesotho.
218. Moving to more general human rights issues, the delays in the enactment of bills and the adoption of draft policies could arguably be identified as a major stumbling block to the development of a vibrant human rights culture in the country. In some instances, the enactment of bills, the adoption of draft policies and the establishment of institutions have been in the pipeline for an exceptionally long time. The establishment of a human rights commission was first conceived of in 1995, yet this important institution has not yet been established. Several other bills and policies necessary to domesticate international obligations and responsibilities are also still awaiting finalisation. The apparent inability to finalise these instruments gives rise to a number of problems and points to a seeming lack of capacity on the part of the government to ensure good and efficient governance. In the process, the development of a sound and vibrant human rights culture is compromised.
219. Linked to the above is the issue of domestication and implementation, identified in many stakeholder meetings as another major problem to be addressed in Lesotho's human rights regime. Again, an apparent lack of capacity inhibits timely reporting to international bodies on progress made in the realm of domestication of international codes and standards.
220. The efficient functioning of the judiciary – the ultimate arbiter of human rights – is also hampered by the inordinate time it takes to enact bills and adopt policies that are needed to promote and protect human rights and to ensure citizens' access to the judiciary. In this regard, mention could be made of the Judiciary Institution Bill (2003) that has not yet been enacted and of the fact that the Ethical Principles for the Judiciary and the Code of Conduct for Legal Practitioners (2007) have not yet been adopted. It was brought to the attention of the CRM that the backlog in the judicial system surpasses the six-month period referred to in the CSAR and that this backlog is closer to 24 months. The Lesotho Poverty Reduction Strategy (PRS) 2004/2005–2006/2007 refers specifically to the need to speed up justice through improved case management systems (p. xvii). Some specific areas of concern in the realm of the judiciary are allegations of torture and abuse, poor prison services and lengthy pretrial detentions (in addition to long trial delays). An efficient judiciary is one of the hallmarks of a functioning democracy and the problems within the judicial system should therefore be addressed with a sense of urgency.
221. Although social and economic rights are not justiciable under the constitution (these are referred to as 'Principles of State Policy' in part III), much could be achieved in advancing these principles should relevant and comprehensive policies be adopted, thereby providing guidelines and implementation frameworks for the provision of such basic needs as water, education, health and sanitation. The final draft of the National Shelter Policy of 2001 has yet to be adopted. Streamlining of the process and procedures for the adoption of bills and policies poses a major challenge to the government of Lesotho, as do capacity building and issues of implementation.



222. To this end (capacity building and implementation), the majority of stakeholders interviewed by the CRM emphasised the need for skills training, civic education and public awareness programmes in Lesotho. Both state and nonstate stakeholders and ordinary citizens require more knowledge and information and greater awareness of human rights issues, whilst elected representatives and civil servants require skills training in the efficient provision, maintenance and protection of a comprehensive human rights culture. In this respect, the need for the establishment of a human rights commission should again be emphasised. Some stakeholders expressed concern that Lesotho has not yet domesticated the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and believe that the failure to establish a human rights commission is at least partly due to the lack of prisoners' rights and to the bad conditions in prisons in the country. A number of stakeholders also pointed out that nongovernmental organisations (NGOs) in the field of advocacy for human rights should put more pressure on government for the establishment of the commission, but it was believed that such pressure, lobbying and advocacy were deficient largely due to a lack of resources and the fact that these organisations often needed to compete for financial support from international donors.
223. Several stakeholders pointed out that these weak institutions remain a major challenge to the country in its efforts to deepen democracy. Again, a concerted effort to implement skills training and capacity building should assist in addressing such challenges. In order for citizens to exercise their civil and political rights, continuing public awareness campaigns and civic education programmes could assist in strengthening the country's human rights culture. Several stakeholders pointed out that many citizens still do not fully understand the new election model (the MMP) and that this lack of understanding might impact negatively on their ability to exercise their rights.
224. The CRM noticed a distinct tension between traditional/customary law and civil law, a tension that is entrenched in the constitution and which permeates society to the lowest levels. The primacy accorded to cultural beliefs and practices (section 18 (4) (c) of the constitution) entrenches discrimination on the basis of sex and inhibits the full development of a human rights culture and the enjoyment of equality by all citizens regardless of gender or religious beliefs.
225. Overall, the CRM has found that the government of Lesotho generally respects the human rights of its citizens, a fact that is underscored by its selection to participate in the Millennium Challenge Account (MCA). A number of challenges remain to be addressed though.

iii. Recommendations

226. The APR Panel recommends that Lesotho:
- Set up a human rights commission. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)
 - Engage in widespread dissemination of information and knowledge on human rights in the Sesotho language. This could be done through the development and implementation of civic education programmes. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)



- Enact a law guaranteeing access to and freedom of information. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)
- Develop comprehensive training of elected representatives and public servants on human rights concepts and practices at the national and local levels. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)
- Strengthen the capacity of the legislature to process bills, and of the institutions that implement policies. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)
- Make a concerted effort to domesticate international codes and standards and to improve the capacity for reporting thereon. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly*)

Objective 4: Uphold the separation of powers, including the protection of the independence of the judiciary

i. Summary of the CSAR

227. The constitution of Lesotho guarantees the independence of the judiciary, whose role it is to check that the executive and the legislature decide and act within the law. The legislature is constitutionally responsible for passing laws and holding the other branches of government accountable. These two institutions require operational independence in order to function effectively.

Independence and effectiveness of the judiciary

228. The CSAR states that the independence of the judiciary has been demonstrated in its decision making. For instance, it is stated that the judiciary is not pressured into supporting the government of the day. Several cases are cited that involved decisions against the government: one involved the Law Society of Lesotho challenge of the prime minister's appointment of an acting judge in contravention of the Human Rights Act; another concerned a ruling against the executive in a case involving the latter's revocation of leases; a third entailed the judiciary upholding the independence of court martial; and a fourth affirmed the constitutionality of assigning magistrates to district administration.

Independence and effectiveness of the legislature

229. The CSAR attributes the lack of independence of the legislature to the overlapping of membership between Parliament and the executive (they cannot exercise oversight of themselves, a legacy of the Westminster style of government) and to the weakness of the opposition. It also notes that Parliament lacks resources and facilities for effective functioning; hence executive transgressions are not dealt with, including the failure to audit public accounts, the violation of human rights by allowing firms to pay 'slave wages' and the failure to investigate allegations of corruption among



government ministers. Other limitations are also noted, such as: the weakness of the PAC, which is characterised as nontransparent, exclusive of public participation and unable to follow up on actions on its reports; and a feeble oversight role on the part of the ombudsman, the auditor general, the Police Complaints Authority and the DCEO as a result of them not reporting directly to the legislature, but through the executive.

230. However, the CSAR notes that a Parliamentary Reform Committee (PRC) has been set up and is driving a reform programme aimed at making Parliament more effective. Its programme includes the establishment of portfolio committees, the review of standing orders, training, and the improvement of the conditions of service of legislators.

ii. Findings of the CRM

231. The separation of powers of the principal organs of government is central to democratic constitutional governance. The CRM observed that the concept of the separation of powers, which makes it imperative to practise a division of labour in the performance of legislative, executive and judicial functions and to exercise checks and balances among the three branches of government, is not a central organising principle in the traditional Basotho system of governance. The interrelationship of the three branches of governance is complex. This complexity is made even more so by the presence of two other institutions, the Monarchy and the Council of State.
232. Executive authority in Lesotho is shared by three institutions: the king, who is the constitutional monarch, the Council of State, and the Cabinet headed by the prime minister. The role of the king is to contribute to national strategic decisions, and to unify the nation. The king is also advised and assisted in the performance of his functions by a Council of State that includes members of the traditional leadership, the executive and the judiciary.
233. The Cabinet (also referred to as the executive) is responsible for policy decisions regarding the management of government business and for the affairs of state. The executive is the highest decision-making and policy-making body for managing the affairs of the state.
234. The prime minister is normally the leader of the majority party in the National Assembly. The prime minister is appointed by the king on the advice of the Council of State. The king also appoints the ministers and assistant ministers from the members of the legislature (National Assembly and Senate).
235. The prime minister, who is the head of government, is required by the constitution to consult the head of state, the king. The executive roles of the two offices have in the past been misinterpreted, for instance in 1994 when the king (Letsie III) replaced a democratically elected government with an appointed one. This decision was later reversed.
236. The legislature is officially known as Parliament and consists of the National Assembly (lower house) and the Senate (upper house). The lower house represents the electorate, enacts laws and is supposed to oversee policy making and implementation in order to ensure the responsibility and accountability of the executive. The Senate is composed of 33 members (22 hereditary principal chiefs and 11 elected members). It scrutinises the laws emanating from the lower house and acts



as a watchdog over it. The king is constitutionally also a member of the legislature. The king also has the role of giving royal assent to parliamentary bills.

237. The legal system of Lesotho is characterised by a duality: there is the judiciary, which uses common law, and the traditional courts headed by the chiefs, which use customary law. The judiciary is supposed to complement the executive and Parliament and is responsible for the interpretation of the law and for the administration of justice. A Judicial Service Commission appoints magistrates, whereas the judges of the High Court and the Court of Appeal are appointed by the king, on the recommendation of the Judicial Service Commission and the advice of the prime minister.
238. Different, but not completely separate, institutions therefore exist that are responsible for the executive, legislative and judicial functions of the state. The overlapping composition of the various institutions poses a problem of definition of roles and boundaries of responsibility of the different institutions. Although constitutionally defined, the respective functions, responsibilities and roles of the various governance institutions in Lesotho are far from clear to a casual observer. The separation of powers is difficult to discern. This lack of clarity has the potential for dysfunctional interactions and relationships among the various governance institutions.
239. To illustrate the complex interrelationships, consider the following examples: the constitution of Lesotho states that the executive is composed of the Monarchy, the Council of State and the prime minister. The king is also vested with executive authority, which can be exercised through authorities or offices of the government of Lesotho. The prime minister and the Cabinet constitute the executive branch of government. The Council of State has a mixed membership, comprising the king, some principal chiefs, and members of the executive and the judiciary. Parliament is composed of the National Assembly, the Senate and the Office of the King. This setup is supposed to ensure that there is some division of governance functions, as well as checks and balances. However, the king appears to be a member of, and functionally involved in, all the branches of government.
240. The key to comprehending the constitutional order and the Lesotho version of the separation of powers lies in understanding traditional Basotho governance, which is the basis upon which the constitutional monarchy was established. The traditional system of governance, which places the king at the apex, does not differentiate the branches of government. The king traditionally combines the decision-making (executive), rule-making (legislative) and administration-of-justice (judicial) functions. The traditional powers and authority are also vested in the king, that is, the functions of the custodian of culture, custom and tradition, as well as unifier of the Basotho nation. The traditional Basotho system of governance emphasises that the chiefs are the police, judges, enforcers and decision makers, the custodians of culture and tradition, and the unifiers. The king, being at the apex, presides over this system of governance and is therefore central to maintaining the coherence of the Basotho nation. The proclamation of a constitutional monarchy was the reaffirmation of the reverence that the Basotho have for this governance system.
241. Actually, the division of functions and the separation of powers as practised in Western democracy are not practised in a similar manner in the traditional governance of the Basotho. The apparent ubiquity of the king in the constitution of Lesotho is in keeping with the Basotho's values, traditions and system of governance.



242. Therefore, the Western notion of the separation of powers does not work in the expected manner in this African constitutional monarchy. Nevertheless, the overlapping memberships of various institutions of state, combined with the apparent overlapping and duplication of certain functions, militate against efficient decision making and implementation.

Independence and effectiveness of the judiciary

243. The CRM observed that there is a Judicial Service Commission, consisting of the chief justice, a retired judge, the chair of the PSC and the attorney general, which meets as and when required. It is responsible for appointments in the lower courts (magistrates), but makes recommendations to the king for appointments to the High Court and the Court of Appeal.
244. The funding of the judiciary occurs through the Ministry of Justice and Human Rights and Correctional Services. Although the budget allocations are channelled through the ministry, the registrar of the High Court is responsible for formulating the budget for the judiciary. However, there is always a problem in that resources are never adequate for the publication of the law reports and legislation.
245. There is a huge backlog of both civil and criminal cases, which is estimated will take at least three years to clear. The typical waiting time for a criminal case is 24 months. Part of the cause of the backlog appears to be the shortage of qualified and experienced judicial staff that can dispose of the cases.
246. The judiciary appears to be quite professional and independent in its case decision making. However, the CRM found that there is mutual distrust between the executive and the judiciary. It appears that the executive doubts the political allegiances of the judiciary, whereas the latter fears executive encroachment in its functioning and suspects deliberate attempts to frustrate proposed reforms aimed at greater autonomy of the judiciary. The capacity of the courts to dispense justice is undermined by human-capacity shortages in the face of increased litigation. The fact that there is no dedicated Constitutional Court means that High Court judges also have to staff that court, which further stretches their capacities. Conditions of service of the judges are reported to be unfavourable and deteriorating, which puts a dampener on morale. The independence of the judiciary is also reported to be compromised by the lack of transparency in appointments to the bench.
247. There is also a Law Reform Commission, which drafted the Judicial Administration Bill of 2001. The bill aims to improve the administration of justice by changing the process of appointments to the High Court and the Court of Appeal and to designate the registrar as the chief accounting officer.
248. However, judicial reforms are lagging behind because of delays in the enactment of several bills, including the Judicial Administration Bill (2001) and the Judicial Institutions Bill (2003), and in the completion of the Code of Conduct for Legal Practitioners (2007).
249. Overall, the human-capacity constraints, the limited budgets, the perceived attempts at executive interference in the administration of justice and the management of the courts, the delays in the disposal of cases and the attendant backlog, and the obstacles to judicial reforms all militate against the independence and effectiveness of the judiciary.



Independence and effectiveness of the legislature

250. That the legislature is weak is confirmed by comments by, and observations of, the various stakeholders whom the CRM consulted. There is a backlog of bills that have yet to be passed by Parliament. *The CRM was unable to determine exactly why so many bills were outstanding.* Stakeholders claimed that the opposition is so weak that the Senate appears to be the effective opposition in Parliament. Portfolio committees, which were introduced only in 2005, have yet to make their mark on improving performance.
251. However, there are some positive developments, such as proposed parliamentary reform measures aimed at making Parliament more effective. The PRC is presently attending to issues such as the declaration of assets by legislators and political leaders, capacity building for parliamentarians, and the reviewing of standing orders.
252. Generally, the Parliament of Lesotho is regarded as being subordinate to the executive branch of government, inefficient in its law-making functions, and ineffective in exercising oversight over the executive.

iii. Recommendations

253. The APR Panel recommends that Lesotho:
- Enhance constitutional democracy and the separation of powers by reiterating the **operational** independence of the various governance institutions. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)
 - Reform the Council of State to reflect the composition and dynamics of Lesotho by including civil society representatives. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)
 - Enact all outstanding bills, including the Judicial Administration Bill (2001) and the Judicial Institutions Bill (2003), and adopt the Code of Conduct for Legal Practitioners (2007) so that the judicial system can be reformed for enhanced performance. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)
 - Strengthen the judiciary by increasing the number of judges and support staff. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)
 - Provide open public access to parliamentary committee meetings to enhance transparency and accountability. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)
 - Enhance legislative oversight and executive accountability by making the oversight institutions (the Office of the Ombudsman, the OAG, the Police Complaints Authority and the DCEO) report directly to the legislature rather than through the executive. (*Government of Lesotho, National Assembly, Judicial Service Commission, Council of State*)



Objective 5: Ensure the accountability, efficiency and effectiveness of civil servants and other public office holders

i. Summary of the CSAR

254. The public service is a crucial arm of government, since it is responsible for the technical aspects of public policy making and implementation. There are legal provisions to ensure an accountable and efficient public service. However, official records and evidence from the field led the CSAR to conclude that Lesotho's public service during the period under review (1996–2006) had been characterised by a number of negative features. The public's assessment of the performance of the public service is that it is inadequate in delivering services.
255. The minister of public service acknowledged during the country self-assessment process that, although, over the years, the building blocks for the reform of the public service had been put in place in the form of laws, regulations and structures, the greatest challenge regarding civil service reform remained attitude and mind-set. The CSAR notes a litany of officialdom's reasons for the negative characteristics of the public service, ranging from colonial legacy, through a culture of arrogance, confrontation and cynicism, to the lack of institutionalisation of change as a permanent feature of the public service.
256. The CSAR observes that the challenge of inefficiency in the public service has impaired the execution of crucial national initiatives. Citizens deplore the fact that the implementation of the nation's PRS, like the development of small and medium enterprises (SMEs), has not had much impact. Measures to improve public access to information remain ineffective owing to the lack of proper channels for the public to interact with government structures and to the unwillingness of most officials to submit themselves to public scrutiny. While the report appreciates the transparency and the application of procedures and practices for recruiting, evaluating and promoting civil servants, it deplores the fact that the appointment of top civil servants, the principal secretaries, remains the prerogative of the prime minister, and hence lacks transparency.
257. Legal provisions and procedures to ensure accountability in the public service are disregarded across the service; hence public finance management and accountability have consistently been deteriorating. In a budget speech to Parliament for the year 2008/2009, the minister of finance and development planning conceded that Lesotho has had a poor record of public accountability dating as far back as 1974/1975. Characteristically, there has invariably been late submission, or nonsubmission, of public accounts for Parliament to scrutinise. The State of Accounts has not been passed without qualification. Indeed, in some periods (e.g. in the period 1982/1983 to 1989) no accounts were submitted to Parliament for scrutiny. The lack of financial accountability has adversely affected the management of the kingdom's relations with other countries, in particular the Republic of South Africa.
258. The CSAR takes cognisance of the fact that the government of Lesotho recognises the challenges confronting the public service, particularly with regard to efficient delivery of services and accountability, and has therefore initiated measures to address the problems in the context of



the Public Sector Improvement and Reform Programme (PSIRP). The PSIRP is meant to improve operations across the whole spectrum of the public service, with emphasis on the following areas:

- Improving financial management and accountability.
- Improving public sector management.
- Decentralisation for service delivery.

259. The CSAR observes that the implementation of the PSIRP should be firmly monitored to ensure that the objectives of the initiatives are realised.

ii. Findings of the CRM

260. The CRM can validate the observation of the CSAR that public perception of the public service and its performance is negative. The CSAR makes note of the remark by the minister of public service that the greatest challenge in civil service reform remains mind-set and attitude. During the CRM's interaction with a variety of stakeholders, in particular civil society, more challenges were indicated, such as arrogance, confrontation and corruption.

261. The CRM is aware that appropriate laws, regulations and procedures, including the PSIRP, have been initiated by the government in an effort to reform the public service and promote accountability, efficiency and professionalism. There are also various institutions with oversight responsibilities over public sector performance. These include the OAG, the Office of the Ombudsman, the Directorate of Public Sector Effectiveness in the Office of the Prime Minister and the PAC of Parliament. However, the impact of these institutions' role on the performance of the public sector has been minimal.

262. Rather, the auditor general's reports have consistently been concerned with the financial accountability of the public sector. Public sector accounts are either not submitted on time for auditing or are deficiently prepared. Several ministries and departments are not complying with government financial rules, regulations and procedures, thus creating a potential breeding ground for fraud and loss of public funds. Indeed, there is ample evidence that public finance management and accountability have consistently been deteriorating over the years.

263. The CRM found that one issue of general concern to several stakeholders is the fact that the top civil servants, the principal secretaries, invariably do not progress through the ranks to the top on the basis of merit and performance, but rather owe their appointment to that high position solely to the decision of the prime minister. The process thus lacks transparency.

iii. Recommendations

264. The APR Panel recommends that Lesotho:

- Review the laws and policies governing public administration with a view to achieving intended impact. (*Government of Lesotho, international cooperating partners*)



- Strengthen and fully implement the objectives of the PSIRP. (*Government of Lesotho, international cooperating partners*)
- Review the process of appointment of principal secretaries. (*Government of Lesotho, international cooperating partners*)
- Develop an effective public communication and information dissemination strategy. (*Government of Lesotho, international cooperating partners*)
- Firmly enforce compliance with financial rules, regulations and procedures. (*Government of Lesotho, international cooperating partners*)

Objective 6: Fight corruption in the political sphere

i. Summary of the CSAR

265. The CSAR subscribes to Transparency International's definition of public corruption as involving behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them. Informed by this definition, and on the basis of interviews with experts, public surveys and media reports, the CSAR concludes that corruption is endemic, widespread and on the increase.
266. The CSAR attributes this situation to the fact that, during most of Lesotho's postindependence history, the principles of public accountability have been flouted. No accountability within the organs of governance was enforced during the 23 years of undemocratic rule prior to 1993. Since then, the situation has barely improved. Government institutions' annual reports are irregular and, when prepared, are so full of discrepancies that the auditor general submits them to Parliament with qualification. There were no audited annual reports for 1996 to 2001 and for 2004 to 2007. Moreover, the reports for 2001 to 2002 and 2002 to 2003 had discrepancies. In addition to the history of discounted public accountability, the CSAR also blames personal greed and loose financial accounting systems for the glaring corruption within the public service.
267. The government of Lesotho has instituted legal and institutional measures to fight corruption. There is the Prevention of Corruption and Economic Offences (PCEO) Act of 1999, which established the DCEO in 2003. The DCEO is mandated by the Act to investigate and prosecute public officers suspected of committing economic offences and corruption.
268. The CSAR cites two other institutions with responsibilities for ensuring accountability in the public sphere: the OAG and the PAC of Parliament. The OAG audits the accounts of government institutions and state-owned enterprises (SOEs), while the PAC examines public accounts, including the review of the reports of the OAG. As a result of inadequate statutory powers, the roles of the DCEO and OAG have had minimal impact on the fight against corruption. The DCEO lacks adequate resources (human, technological, financial and infrastructural) to deal effectively with cases of corruption, and it lacks autonomy, since it is merely a unit within the Ministry of



Justice and Human Rights and Correctional Services. Similarly, the OAG is not independent, but operates under, and is housed by, the Ministry of Finance and Development Planning (MoFDP), is funded through a budget determined by the minister of finance and development planning, and is staffed through the PSC. More importantly, the OAG reports to Parliament through the minister of finance and development planning.

ii. Findings of the CRM

269. Lesotho has in place the following laws which aim to combat the problem of corruption and ensure accountability in the public sphere:
- The Income Tax (as amended) Act 10 of 1993.
 - The Public Procurement Regulations, 2007.
 - The Public Service Act, 2005.
270. This anticorruption legal framework does not appear to have achieved much. The findings of the CRM confirm the concerns raised in the CSAR. Consultative meetings with various stakeholders underscored the perception that corruption in the public sphere and beyond is deep, pervasive and increasing. Nonstate stakeholders are the most virulent in their condemnation of the cancer of corruption and unequivocally dismissive of the government's efforts to combat it. During interactions, individual interlocutors similarly deplored the entrenchment of corruption and its detrimental impact on development and on public confidence in governance. Corruption undermines administrative effectiveness and efficient service delivery. Most attribute the source of pervasive corruption to greed at all levels of society and to half-hearted, ineffective measures to contend with the problem.
271. Research at the OAG and interaction with senior staff provided the CRM with evidence on the depth and pervasiveness of corruption in the public sector, on some of the sources of corruption in such sector, and on the weakness of anticorruption measures. There is a long history of inadequacy with regard to the public accounts of the government, which has consequently attracted disclaimers for over 30 years. Even the latest audited accounts for 2004/2005 and 2005/2006 also have an audit opinion that is disclaimed. The report of the auditor general on the public accounts of Lesotho for the two years ending 31 March 2006 reveals unacceptable findings across several ministries and departments regarding noncompliance with government rules, regulations and procedures and the potential for fraud and loss to the government. The CRM gathered that several public institutions, statutory bodies and projects are either not submitting their accounts on time for auditing, or, when submitted, the accounts are found not to be auditable.
272. The auditor general's report further finds that public accounts are not presented in accordance with any defined standards such as International Public Sector Accounting Standards (IPSAS). Consequently, there is lack of clarity in the presentation of the accounts. There is also a fundamental problem with the management of government institutions' bank accounts, in that most accounts have not been reconciled for the past years. This casts significant doubt on the accuracy of the figures reported in the Government of Lesotho Financial Information System (GOLFIS), which



means that the government would not have known what its actual cash position was at the end of the 2004/2005 and 2005/2006 financial years. In this regard, there is a significant risk of material fraud that has not been detected owing to the absence of reconciliations.

273. The CRM learnt that there is an extensive backlog of unreconciled public accounts, and, in many cases, there is no documentation to facilitate full reconciliation. This is yet another loophole for fraud in the public sphere. In this regard, one of the most serious indictments in the auditor general's report is that the oversight of the Office of the Accountant General is not adequate and does not ensure that ministries and districts submit reconciliations and supporting information on a monthly basis. This is perpetuated by the fact that failure to submit reconciled accounts carries no sanctions or risks regarding continued funding.
274. The CRM appreciates the government's concern about the scourge of corruption and its determination and efforts to address the problem of corruption and lack of accountability in the public sphere. The CRM, however, is of the view that more needs to be done for these efforts to be effective.
275. Additionally, the DCEO is regarded as ineffective. Stakeholders described it as a toothless watchdog, especially in view of its failure or inability to investigate alleged corruption among state officials. It also appears to lack the capacity to investigate economic offences, which require quite specialised skills, especially when it comes to money laundering and other sophisticated economic crimes.

iii. Recommendations

276. The APR Panel recommends:
- That the OAG be functionally independent instead of operating as a department of the MoFDP. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)
 - That the OAG be granted the flexibility to recruit its own staff and not necessarily be staffed through the PSC, and that the staffing level be commensurate with its workload. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)
 - That the OAG and other institutions involved in the anticorruption crusade be granted an adequate level of funding and physical resources to meet their operational requirements. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)
 - That the OAG be mandated to submit its reports directly to the PAC of Parliament and not through the MoFDP. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)
 - That the PAC of Parliament deal with government audit reports promptly and firmly in accordance with the provisions of the law. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)



- That the mandate of the DCEO be revised so that it performs functions that are commensurate with its capabilities. This could involve making it specialise in corruption while economic offences are dealt with by a specialised entity. (*Government of Lesotho, OAG, PAC, DCEO, the ombudsman, international cooperating partners*)

Objective 7: Promote and protect the rights of women

i. Summary of the CSAR

277. Lesotho has signed and ratified the majority of international and regional human rights instruments that protect and promote women's rights. The country's Vision 2020, the Millennium Development Goals (MDGs) and the PRS programme all espouse the need for women's rights and gender equality as a critical requirement for development. The CSAR concedes that the government of Lesotho has made various efforts to domesticate some of the provisions of international instruments, but points out that several are still outstanding, ascribing this situation to the fact that the country "remains traditionalist when it comes to human rights issues and the application of customary laws".
278. Measures for the promotion and protection of women's rights include legal measures, institutional and administrative frameworks, and policy frameworks.
279. The constitution of Lesotho (1993) contains a bill of rights in chapter II which sets out, in section 1 (o), the right to equality and, in 1 (n), the right to freedom from discrimination. Discrimination is also prohibited in sections 18 (1) and (3). In strong contrast to these measures, though, stands section 18 (4) (c), which condones discrimination on the basis of culture as far as it concerns women and girl children. Such section allows for discrimination against them under custom on the ground of gender. Lesotho has made a reservation to CEDAW in this regard. This reservation is rebutted in terms of sections 26 (1) and (2) of the constitution, which commit the country to policies that would promote "a society based on equality and justice for all citizens regardless of ... sex ...".
280. The CSAR points to a number of areas in which discrimination against women still persists. Among these is the fact that women in the textile industry are entitled to only two weeks' paid maternity leave (as opposed to six weeks' paid maternity leave for other female employees) and that nonpermanent female civil servants are not entitled to maternity leave.
281. According to the CSAR, the adoption of the Legal Capacity of Married Persons Act of 2006 is an important step forward in the promotion of gender equality, as it secures women's sexual and reproductive rights, as well as their sexual autonomy. The Act abolishes the absolute marital power of the husband. The country survey reports that there is general agreement that the reproductive and health rights of women and men are protected equally, though women with disabilities believe that they do not enjoy the same rights as capable women do owing to social stigma and the fact that they are excluded from certain forms of information dissemination and service provision.
282. Because Lesotho has traditionally been a patriarchal society, powers and real rights devolved along the male line, which has had severe consequences for women. However, a number of Acts and policy frameworks have, over time, been amended or adopted in order to address these



restrictions on women. The Gender and Development Policy of 2003 argues for women's property and inheritance rights, whilst the Legal Capacity of Married Persons Act of 2006 provides married women with full legal rights to own property and hold title to land. The Land Amendment Bill (2008), once enacted, will provide for joint titling of land belonging to spouses married in community of property. Although unmarried women do not inherit under customary law, they may be allocated property by way of written instruction in terms of the Laws of Lerotoli (1903). Unmarried women governed by common law have the right to inherit either intestate or by means of a will.

283. The Lesotho Bank Amendment Bill of 2008 will repeal the existing Lesotho National Development and Savings Order of 1971, in terms of which women are regarded as minors who cannot open a bank account without the consent of their husbands. Further, the Ministry of Gender and Youth, Sport and Recreation (MGYSR) has developed a proposal to establish a microcredit scheme for women. Several measures have been adopted to improve the situation of women in the workplace and to promote their right to employment.
284. Lesotho has ratified a number of international instruments concerning the political rights of women and has put in place a number of measures to domesticate these instruments. However, the country has ratified CEDAW with reservations on issues of culture and chieftainship, meaning that its constitution does discriminate against women on the basis of customary law and religious denomination. This exception clause therefore contradicts various sections of the constitution, which extol nondiscrimination on the basis of gender.
285. Lesotho has acceded to various international and regional instruments that promote the participation of women in power structures, decision making and leadership. Among these are the Beijing Declaration and Platform for Action (1995), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003) and the SADC Declaration on Gender and Development (1997). The latter has been translated into Sesotho and has been disseminated together with the Gender Policy, though there is some doubt as to how widely these have been disseminated. Despite constitutional, institutional, policy and legal frameworks, the CSAR points out, the majority of the poor, unemployed and landless in the country are still women, a situation exacerbated by the fact that so many of them are still governed by customary law, which considers them as perpetual minors.
286. Several measures have been adopted in order to promote women's political rights. Despite the National Assembly Amendment Act of 2001 (section 36A) aimed at gender mainstreaming by political parties, no accompanying guiding principles or mechanisms for enforcement exist and therefore little success was achieved in having political parties include gender in their manifestos. Some visible success was achieved, though, in terms of the Local Government Electors (Amendment) Act of 2005, which stipulated that no less than 30 per cent of the seats in the local councils should be reserved for women. In this way, Lesotho far exceeded the SADC requirement of 30 per cent representation and reached 58 per cent in the local elections of 2005. The CSAR reports that some groups in civil society expressed dissatisfaction with the quota system, alleging that it constituted a form of discrimination against men and other groups in society.
287. Lesotho also made significant progress in gender mainstreaming in other areas of political and decision-making leadership between 1996 and 2008, as evidenced in the table below.



Table 3.3: Gender representation in political and decision-making leadership, 1996–2008

Category	After 1993 elections		After 1998 elections		After 2002 elections		After 2007 elections		Assessment
	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	
National Assembly – lower house	5/3 (4.61 per cent)	95/67 (95.38 per cent)	3 (3.75 per cent)	77 (96.25 per cent)	13 (10.8 per cent)	107 (89.2 per cent)	26 (21.7 per cent)	94 (78.3 per cent)	Making positive changes, but underperforming and far from meeting the standards. “An uphill struggle” states an expert.
	1 (6 per cent)	17 (94 per cent)	2 (11 per cent)	16 (89 per cent)	4 (23.5 per cent)	13 (76.5 per cent)	6 (31.6 per cent)	13 (68.4 per cent)	
Cabinet	0	1	0	1	2	4	3	3	Progress: 15.8 per cent gain in 2002, and 12.5 per cent in 2007, though a decrease from before. Missed 30 per cent threshold in 2005. Under 50 per cent standards.
		(100 per cent)		(100 per cent)	(50 per cent)	(50 per cent)	(50 per cent)	(50 per cent)	
Deputy/assistant ministers	7 (21 per cent)	26 (79 per cent)	7 (21 per cent)	26 (79 per cent)	11 (per cent)	22 (per cent)	12 (36 per cent)	21 (64 per cent)	Good performance surpassed SADC 30 per cent target in 2005. Met 50 per cent AU/SADC standard.
Senate – upper house	13 per cent	87 per cent	25 per cent	75 per cent	19 per cent	81 per cent	31.6 per cent	68.4 per cent	Presence of women increasing and surpassing 30 per cent SADC target of 2005.
							6	13	
Principal secretaries									Progress, but failed to reach 30 per cent target of 2005. Under 50/50 per cent standard.



Category	After 1993 elections		After 1998 elections		After 2002 elections		After 2007 elections		Assessment
	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	No. of women (per cent)	No. of men (per cent)	
Judges	14 per cent	86 per cent	11 per cent	89 per cent	20 per cent	80 per cent	6	7	Low representation since 1993. Made good progress after 2007 elections. Close to attaining 50 per cent gender parity standards.
							(42 per cent)	(58 per cent)	
Ambassadors							5	8	Historically low representation not meeting set standards.
			25 per cent	75 per cent			(38 per cent)	(61.5 per cent)	
IEC commissioners	N/A	N/A	0	3	1	3	1	2	Gender imbalance remains. Best practice: appointment of a woman as chairperson in May 2008.
				(100 per cent)	(25 per cent)	(75 per cent)	(25 per cent)	(75 per cent)	
Private sector chiefs							6	24	
							(20 per cent)	(80 per cent) ¹⁵	
Defence force	0	0	0	0	0	0	0	0	
Political party executives					9 per cent	91 per cent			

Source: Adapted from the CSAR.

¹⁵ According to the CSAR, of the 30 sampled companies, six have women chief executive officers (CEOs), and these are: the Water and Sewerage Authority (WASA), the Lesotho Housing and Land Development Corporation (LHLDC), First National Bank (FNB), the Centre for Accounting Studies (CAS), the LPC and the MCC (p. 225)



288. The CSAR identifies a number of challenges and gaps that remain with regard to women's rights. As for legal challenges, several Acts, orders and codes, such as the constitution, the Workmen's Compensation Act, the Public Service Regulations and the Laws of Lerotholi, still contain discriminatory provisions, though it should be pointed out that some of these are not confined to women. So, for instance, not only female domestic workers are excluded from the protection offered by the Workmen's Compensation Act, but also herd-boys and herdsman, whilst the Laws of Lerotholi contribute to the vulnerability of girls and boys who reach puberty by then considering them to be at a marriageable age. In addition, gender focal points within government departments and at district administration levels are considered to be ineffective, mostly owing to the junior status of incumbent officials and a lack of knowledge regarding gender mainstreaming techniques and processes.
289. Much emphasis is placed in the CSAR on the increase in domestic violence and gender-based violence, which affect both women and children. The CSAR notes that "incidents of gender violence are on the increase and seem to go unabated as institutional mechanisms in place have serious deficiencies". It concludes that "widespread domestic violence, severe restrictions on women's rights and societal discrimination against women" remain as "major human rights problems" in Lesotho.

ii. Findings of the CRM

290. The CRM concurs with the CSAR that Lesotho has demonstrated a national commitment "to raising the status of women and increasing their presence in power and decision-making", in line with international requirements and obligations. Several stakeholders, particularly development partners, pointed to the commitment of the Department of Gender and Youth, Sport and Recreation, and, more specifically, to the efforts of the responsible minister in improving the rights, status and position of women in society. The department has established a Gender Thematic Group which has brought together state and nonstate stakeholders to discuss, and cooperate regarding, issues of concern to women, in line with the requirements set by international conventions. In addition, women in Lesotho enjoy higher levels of literacy and education attainment than their male counterparts. The CRM also took note of the fact that many of the international codes and standards acceded to by Lesotho in the realm of women's rights nevertheless still require domestication and regular monitoring and reporting.
291. Despite various successes with regard to the promotion of gender equality, the CRM concurs, though, with the CSAR that gender inequality remains entrenched in the cultural practices and traditions of the country and that the unequal status and position of women remain entrenched in the constitution, despite some sections in it that affirm equality and nondiscrimination. A number of challenges therefore face the country in its attempts at domesticating international gender instruments and promoting the equality of women, not least of which are the inherent contradictions in the country's constitution.
292. Stakeholder groups confirmed the findings and concerns expressed in the CSAR regarding widespread and increasing domestic violence in the country and the need to enact legislation in this regard. During 2008, a total of 7,700 cases of domestic violence were reported to the



police. In some of the districts visited by the CSAR, concerns were raised that domestic violence was not only being experienced by women and children, but that, in some cases, men were also increasingly becoming the victims of such violence. On the positive side, stakeholders pointed to the establishment of the Gender and Child Protection Unit within the police service, though it is obvious that this unit is not sufficiently capacitated to address problems of domestic violence without the necessary legislation being in place.

293. The primacy of traditional law in Lesotho still leaves many women, especially those in the rural areas, as minors with little control over their own lives. Customary law marriages relegate these women to a lifelong status as minors. Time and again, issues regarding inheritance rights and laws were raised by stakeholders in this regard, and there was a clear indication that customary discriminatory practices were increasingly being considered unacceptable. State stakeholders in particular criticised such practices severely. Cultural practices and traditional socialisation patterns inhibit women in the exercise of their rights and freedoms. In the realm of political participation and decision-making positions, these patterns of socialisation seem to entrench women's subordination within a patriarchal culture, preventing them from fully exercising their rights and freedoms. It is generally accepted that such deeply entrenched practices and norms can only change where prolonged efforts are made across a broad spectrum of initiatives to enhance and promote equality and to remove gender discrimination.
294. However, Lesotho has made great strides in addressing issues of discrimination against women. In this regard, the Legal Capacity of Married Persons Act 9 of 2006 stands as a lasting testimony to the commitment of the government in this regard. The Act in effect eliminates discrimination against women in all walks of life, with the exception of inheritance rights, which remain problematic for women subject to customary law. At the time of the CRM visit to Lesotho, the government was in the process of disseminating information on the Act among the rural population and the Act had also been translated into Sesotho. Stakeholders nevertheless felt that a more concerted effort regarding dissemination and training on the substance and implications of the Act was necessary.
295. The government has made several further efforts to improve the status of women and their participation in political life and decision-making positions. In line with the SADC Declaration on Gender and Development, and Addendum (1997), the government, through the Local Government Electors Act (as amended) (2005), enacted a requirement that 30 per cent of local council seats be reserved for women representatives. The success of this measure is to be seen in the fact that local government councils now have 58 per cent female representation, and Lesotho has now surpassed both the SADC 30 per cent target for 2005 and the AU/SADC standard of 50 per cent. It should be noted, though, that the Act provides for such a quota in only three successive local government elections. Lesotho has also exceeded the SADC 30 per cent target within the judiciary, where 42 per cent of judges are women. Although Lesotho has only one city council (Maseru), 74 per cent of its city councillors are women, thereby surpassing both the 30 per cent target and the 50 per cent standard set by the SADC and the AU/SADC respectively.
296. It would seem that the MMP election model has to some extent contributed to an increase in the number of women in the National Assembly. Whereas only 4 per cent of the members of the



National Assembly were women after the 1998 elections (the last time the FPTP system was used), 11 per cent of the National Assembly was female after the 2002 national elections (the first time the MMP system was used), rising to 22 per cent in 2007. However, Lesotho still falls short of the SADC 30 per cent requirement and the AU/SADC 50 per cent standard. Several reasons for the discrepancy between female representation at local and national level were put forward during stakeholders' discussions, the most important of which was that there was no legal obligation on political parties to use quota systems for drawing up party lists for the elections of 2002 and 2007 (as opposed to the situation that pertained under the 2005 amended legislation governing local government elections). Furthermore, the effects of customary law and traditional practices, as well as socialisation processes that relegate women to an inferior position in society, were also cited by some stakeholders as reasons for the failure of the country to reach the 2005 SADC target of 30 per cent female representation in political decision making at the national level. There were also reports that women constituted a 'silent minority' within the National Assembly and that little if any effort was being made by political parties to select or appoint women to senior party structures.

297. The government has made a concerted effort to appoint women in senior decision-making positions. In so doing, it is leading the way in attaining the benchmarks set by the SADC Declaration on Gender and Development. Although only 32 per cent of Cabinet ministers are women, 50 per cent of assistant ministers and 42 per cent of judges are female. Within the civil service, there are relatively few women principal secretaries, though the commissioner of police is female, as is the permanent secretary for defence and national security, something that is exceptional within the Southern African and broader African governance context.
298. Gender focal points have been introduced in all government departments, and district gender officers in each of Lesotho's 10 districts. In response to the CSAR finding that these officers were often too junior and unable to mainstream gender within their respective departments, stakeholders pointed out that skills training and regular workshops were being conducted to empower these officers and that attention should be paid to the coordination of their work. It was suggested that such coordination should be the responsibility of the Department of Gender and Youth, Sport and Recreation. Gender officers within government departments and district administrations reported directly to their national departments and there was a lack of coordination, both of which undermined the efficiency of their work.
299. The second PRS has been thoroughly 'engendered' and gender mainstreamed.
300. However, stakeholders pointed out that, although government seemed committed to promoting gender equality, it was also necessary to change basic attitudes to women, and to their participation in political life, and that such change would, in the long run, depend on changes in societal norms, attitudes and behaviour transmitted through various socialisation agents such as the family, the church, schools and the community at large. In order to address patterns of socialisation, large-scale awareness programmes are required, as well as the availability of information in Sesotho. Concerted efforts to train women and to increase their skills and knowledge base, especially those who participate as elected local councillors and members of the National Assembly, are needed to sustain the momentum of including women in the political arena.



301. Much mention was made during discussions with stakeholders of the lack of resources of the government to implement gender mainstreaming fully. International development partners were assisting in filling the gaps, but it would not be possible for the government of Lesotho to fulfil all its obligations without sustained and large-scale assistance from development partners.

iii. Recommendations

302. With regard to promoting and protecting the rights of women and mainstreaming gender equality, the APR Panel recommends that Lesotho:

- Develop and enact legislation on domestic violence. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
- Disseminate information on women's rights, in Sesotho and English, with specific reference to the Legal Capacity of Married Persons Act 9 of 2006. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
- Devise capacity-building programmes for gender focal points and district gender officers and centrally coordinate their work through a single ministry. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
- Encourage political parties to include women in party leadership structures. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
- Focus attention on enhancing the status and position of women who are subject to customary law, with particular attention being paid to inheritance rights. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)

Objective 8: Promote and protect the rights of children and young persons

i. Summary of the CSAR

303. Lesotho is party to a range of international conventions dealing with the rights of children and young persons. Among these are the UN's CRC, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, the Optional Protocol to the CRC on the involvement of children in armed conflict, the International Labour Organization (ILO) Worst Forms of Child Labour Convention and the African Charter on the Rights and Welfare of the Child. Further, section 32 of the constitution provides for the protection of children and young persons. Lesotho has signed, but not yet ratified, the African Youth Charter (2006) and has prepared a Youth Policy and a draft bill to establish a Youth Council in preparation for the ratification and domestication of the Youth Charter.



304. Lesotho has adopted a number of Acts and policies designed to enhance the protection and promotion of the rights of children and the youth. These include the following:
- The National Reproductive Health Policy, which takes cognisance of the fact that young persons are at greater risk of contracting HIV and AIDS than other groups in society and calls on the government to strengthen and enforce laws to protect this group against physical and sexual abuse and to increase their access to information and services.
 - The Gender and Development Policy (2003), which specifically mentions the need for access to equal rights and opportunities for girl and boy children.
 - The National Social Welfare Policy (2004), which undertakes to protect children in all areas of life.
 - The National Policy on Orphans and Vulnerable Children (OVC – 2005), which aims at ensuring full care and support for these children, and various Acts providing protection against various forms of abuse.
305. A number of policies and other incentives have been developed in order to promote the interests of young people. Among these are youth resource and training centres, credit schemes and business skills training programmes. A National Youth Council Bill (2008) has yet to be adopted.
306. The CSAR mentions that the government of Lesotho suspects the existence of trafficking in small numbers of men, women and children for forced labour and sexual exploitation, but has not substantiated these suspicions.
307. A Gender and Child Protection Unit has been established within the police service. During the course of 2008, 309 cases of child abuse were opened. A safe house for abused women and children (Lapeng Centre) was opened and similar facilities will be established in all districts of the country.

ii. Findings of the CRM

308. The enormity of the challenge to Lesotho to protect and promote the rights of children and young people becomes evident when one considers the fact that 63 per cent of the country's population is under the age of 25 (PRS, p. 24).
309. Many stakeholders expressed concern about the fact that the Child Protection and Welfare Bill (2000) has not yet been enacted. Addressing the rights of children is furthermore hampered by the fact that six different departments are tasked with programmes targeting children and, according to the *Lesotho Vision 2020*, the Department of Youth within the Department of Gender and Youth, Sport and Recreation is "woefully underresourced". Further concern was expressed in particular about the rights and conditions of orphans, including their inheritance rights. It would seem that the government has not yet fully taken account of the huge implications of the increasing number of HIV and AIDS orphans. Among these implications is the need for an efficient legal framework that would protect the property and inheritance rights of these orphans, as well as their access to education and the opportunity to remain integrated in their communities and social environments.



310. Mention was also made of the fact that male orphans in rural areas were treated differently from girl orphans, in that the latter would be afforded the opportunity to attend school, while the former would be confined to cattle herding, with little, if any, access to education or social contact, resulting in their alienation from society. Fears were expressed that these conditions were breeding criminality, ignorance and asocial behaviour in these young men.
311. Another issue of concern, and one that is also mentioned in the CSAR, was the rapid increase in the number of young female sex workers, most of them pushed into a life of prostitution as a result of abject poverty. These young women enjoy little, if any, legal protection or access to basic health services and other needs, have few rights and have little knowledge of the services and information available that might protect them.

iii. Recommendations

312. The APR Panel recommends that Lesotho:
- Streamline programmes aimed at the protection of children and young persons and coordinate the functioning of the various departments tasked with dealing with young people. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
 - Provide the Department of Youth with adequate financial resources and human capacity. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
 - Develop policies and practices to protect the rights of children, especially boy children, to education. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
 - Enact the Child Protection and Welfare Bill. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
 - Provide information on, and access to, health care for young sex workers. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)

Objective 9: Promote and protect the rights of vulnerable groups, including the disabled, the poor, internally displaced persons (IDPs) and refugees

i. Summary of the CSAR

313. The CSAR introduces its assessment on this aspect by pointing out that there is no universal check list of who is the most vulnerable in a given society. Rather, the identification of such groups depends largely on human rights concerns within a given country and context. It further argues that the worsening socioeconomic situation in Lesotho, together with rising poverty and the HIV



and AIDS pandemic, places all Basotho in a potentially vulnerable situation. The CSAR identifies four distinct vulnerable groups, viz. the elderly, the chronically ill, the disabled, and displaced persons/refugees and orphans.

314. The elderly are not specifically provided for in the bill of rights, but are indirectly covered by the Principles of State Policy. Their rights are therefore not considered as fundamental at the national level, but some issues concerning their rights are covered in the National Social Welfare Policy (2004). The CSAR points out that there is a “hollowing out of families” as a result of the effect of HIV and AIDS, which leaves many elderly people as caregivers to both the sick and orphans. Urban poverty, in particular, affects the aged and female-headed households, as well as those headed by children.
315. In 2004, the government introduced a noncontributory pension scheme covering people over the age of 70 and applicable to both men and women. This pension was increased from M200 to M300 for the 2009 financial year.
316. People with disabilities constitute about 14 per cent of the total population of the country, but they form part of a social group whose rights are not explicitly protected by the constitution. Lesotho is a signatory to, and has ratified, a number of international instruments providing for the protection and promotion of the rights of the disabled. Discrimination against people with physical disabilities is unlawful in Lesotho and a number of Acts and policy frameworks provide for, among others, a range of benefits for people with disabilities. The CSAR mentions that the National Disability Policy, which will focus on equal civil, legal and industrial rights for disabled people, has not yet been adopted.
317. NGOs and religious institutions, as well as organisations of people with disabilities, play an important part in the development of the disabled and in providing rehabilitation services that might facilitate the integration of such persons into mainstream society. There are, however, no legal provisions mandating those who represent people with disabilities to participate in policy making or to work with government institutions. Few organisations of persons with disabilities receive financial support from the government.
318. As far as refugees are concerned, Lesotho is bound by several international instruments to which it has acceded, to prove refugee rights. In addition, two documents at the local level, viz. the constitution (which provides, in chapter II, for fundamental human rights, rights that are also applicable to refugees) and the Refugee Act 18 of 1993 (which provides for the recognition of refugees and related matters), focus specifically on refugee status or asylum. Lesotho has a designated commissioner for refugees, and, according to the country-wide survey conducted by the National Governing Council (NGC), the large majority of Basotho indicated that there was no discrimination against foreign nationals and that they enjoyed equal rights with citizens.
319. Lesotho enacted the Labour Code Amendment Act in 2006 to provide for mandatory HIV and AIDS workplace policy for all employees. This Act focuses on the labour rights of employees living with HIV and AIDS. In terms of the amendment, government employees who suffer from HIV and AIDS receive subsidised food and medicine, and such assistance is available to all patients at state hospitals. The National HIV and AIDS Policy (2006) is aimed at providing a framework within



which all related initiatives, interventions and programmes operate. The 2006 Monitoring and Evaluation Framework tracks the implementation of the national policy framework. The National AIDS Commission (NAC) has taken the initiative in developing an HIV and AIDS Bill that will provide for the special needs of people living with HIV and AIDS and for the regulation of related matters, such as the provision of services for such people. Overall, people are of the opinion that implementation of these various policies should be fast-tracked, given the scope of the HIV and AIDS pandemic in the country.

ii. Findings of the CRM

320. As in other areas of the human rights regime, the enactment of bills and the adoption of draft policies remain a shortcoming. In the absence of legal frameworks and policy measures to ensure the protection and promotion of human rights, various weaknesses can be identified in the status and position of vulnerable people in Lesotho.
321. The urgent need for the legal protection of the rights of orphans has already been noted, but needs to be underscored. Lesotho is facing a long-term challenge in terms of a rapidly increasing orphan population owing to the ravages of HIV and AIDS. Their access to education and to other basic needs, such as health, shelter and food, also needs to be addressed. Despite efforts to improve the provision of basic health by increasing the number of clinics and access to medication, especially antiretroviral therapy (ART), Lesotho has a serious shortfall in qualified medical staff, including nursing staff. This lack of qualified personnel inhibits the provision of basic services. Abject poverty further erodes the ability of vulnerable groups to access basic services.
322. Stakeholder groups representing the disabled/physically challenged pointed out that there is little, if any, protection of the latter's rights in society and that these people, who constitute a sizeable proportion of the population, are often socially excluded, as well as excluded from various projects aimed at empowering people to be more self-sufficient and secure. Little attention is paid to accessibility to existing services, with a lack of access to public buildings being but one visible sign of their exclusion.
323. Although the noncontributory pension scheme for the elderly is widely hailed as an example of best practice, doubts were expressed as to the sustainability of the effort, especially given the current global economic crisis and the pressure it exerts on the country's national budget.

iii. Recommendations

324. The APR Panel recommends that Lesotho:
 - Develop and enact legislation to protect the rights of people living with HIV and AIDS, including the inheritance rights of orphans. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)
 - Domesticate the Declaration on the Rights of Disabled Persons. (*Government of Lesotho, nonstate actors – civil society, traditional leaders, the media – the National Assembly, political parties*)



CHAPTER FOUR

4. Economic governance and management

4.1 Overview: from adjustment to growth and development

325. Lesotho has gone through a series of policy shifts since independence. These started with regulation and repression, moved to structural adjustment, and, finally, to postadjustment in the period from 2005 to the present. In this latest phase, the economy has been significantly liberalised and most price and cost distortions removed. The current development challenge is to harness the gains of previous reforms to lay the foundations for long-term growth and sustainable development by pursuing sound macroeconomic policies that are supportive of that effort.
326. The economy of Lesotho has experienced external shocks and structural changes since the 1980s. Only about half of its gross national product (GNP) was generated within its borders in the early 1980s. Remittances from migrants accounted for the rest. Since then, the economy has experienced sluggish growth caused by two major external shocks. Between 1980 and 1987 and between 1987 and 1997, growth trends in gross domestic product (GDP) and GNP moved in opposite directions. Several structural changes occurred. One was the launching of the Lesotho Highlands Water Project (LHWP). The other was the arrival of the textile and garments industry from across the border in South Africa. Both developments were associated with large-scale investment financed by foreign capital and both accelerated growth in GDP.
327. About the same time, a third development occurred. This was declining remittances from miners. Their share of GNP fell from 48 per cent between 1980 and 1987 to 36 per cent between 1987 and 1997. The combination of these developments, together with declines in terms of trade, led to a decline in net incomes from abroad. It forced GDP and GNP to converge. By 1997, the share of GDP in GNP was 76 per cent, up from 49 per cent in 1980. Growth in GNP has averaged only 1.4 per cent since 1999, largely because of further declines in remittances from workers. By 2001, their share in GNP had declined to 3 per cent, partly because of the declines in LHWP investments and partly because of the slowdown in service sectors. This permitted the export-oriented garment industry to emerge as the new engine of growth.
328. Over the years, however, the economy has faced serious development challenges. They include: poverty and unemployment; food insecurity; low incomes; Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS); some unique constraints, such as the size of the economy; stiff competition from established South African firms; and inadequate infrastructure.
329. *Poverty and employment.* Sluggish growth spanning several years has been accompanied by high poverty, inequality and unemployment. About 60 per cent of the population continues to be poor



and a third lives in abject poverty. The incidence of poverty is higher in rural areas, in larger households with more children and older people, and in households headed by women. The lack of employment opportunities for retrenched workers returning to Lesotho worsened poverty in the rural areas. Here nonpoor households, which were mostly dependent on remittances as a primary source of household income, slipped below the poverty line. Wage employment opportunities in the LHWP and the garment industry were insufficient to absorb the returning miners. Unemployment remains high in Lesotho, while inequality is one of the highest in Africa.

330. *Food security, low incomes, HIV and AIDS.* Low incomes and the HIV and AIDS pandemic have combined to worsen food insecurity among the Basotho. Lesotho produces only 30 per cent of the food it requires to feed its people in a normal year. The agricultural sector is vulnerable to the vagaries of the weather. The country therefore needs additional food assistance in drought years. The high incidence of HIV and AIDS in Lesotho has become a major cause of poverty (it is estimated that about 23.2 per cent of adults are living with HIV and AIDS). Although the economic consequences of the pandemic have not been analysed fully, preliminary estimates suggest that the costs to the economy and the public sector are quite high.
331. *Unique constraints.* Lesotho faces some unique constraints to its development. These include its size, its dependence on South Africa, stiff competition from South African firms, and poor and inadequate infrastructure.
332. *The size of the economy and dependence on South Africa.* Lesotho remains limited by its small size and its location within South Africa. This discourages foreign investors who might otherwise be interested in locating in Lesotho to service their domestic markets. Almost half of Lesotho's GNP had been generated in South Africa until about 1980. However, by the end of the 1990s, this trend had been reversed. Lesotho now produces nearly 80 per cent of its GNP, while many of its exports, comprising 40 per cent of GNP in 2003, came from the foreign direct investment (FDI)-driven garments sector that is independent of South Africa. Lesotho, however, relies on South Africa for many critical services like banking, medical referrals and higher education.
333. *Stiff competition from established South African companies.* As a member of the Southern African Customs Union (SACU), Lesotho has a fairly liberal trade regime under a common tariff structure. Although the movement of goods and services is relatively easy across the border, local producers face intense competition from well-established companies in South Africa. This might be detrimental to the establishment and growth of locally owned enterprises in the long run. Furthermore, because a large percentage of the South African population and its economic activity are concentrated close to the borders, some of the nontradable items, which would otherwise be produced in Lesotho, are imported. The challenge facing policy makers is to exploit this proximity to an advanced neighbour and tailor the spillover to its advantage. This question is discussed in greater detail below under the government's response to the current global economic crisis.
334. *Poor and inadequate infrastructure.* One of the major constraints facing Lesotho is its poor and inadequate infrastructure. There are no good roads in most of the districts and inadequate infrastructure constrains investment and growth, especially in remote mountain areas. The Country Self-Assessment Report (CSAR) indicates that, even in the capital city, the neglect of the railhead at Maseru station is hampering the development of sandstone quarrying and other manufacturing sectors.



335. In addition to its inadequate infrastructure, the absence of links between the manufacturing sector and the rest of the economy almost makes Lesotho a closed economy. All the inputs are imported and expatriates hold all technical and supervisory positions, as skills in these areas are in short supply. FDI has not led to technology being transferred or knowledge being broadened. This is shown by the absence of Basotho-owned firms, even though Lesotho has housed the garment industry for 25 years. Small and medium enterprises (SMEs) face constraints related to the weakness of the economy, the absence of property laws, rules governing finance and red tape.
336. Despite these difficulties and challenges, economic performance in Lesotho has improved since the turn of the 21st Century (see table 4.1). Real GDP grew by an annual average of 3.8 per cent between 2002 and 2008. The Ministry of Finance and Development Planning (MoFDP) predicts that real GDP will grow by 3.6 per cent in 2009, by 4.3 per cent in 2010, and by 5.0 per cent in 2011. The rate of inflation averaged 7.5 per cent annually between 2002 and 2008, while per capita income averaged \$715 annually. Overall fiscal balance, as a percentage of GDP, averaged 6.3 per cent including grants, and 4.8 per cent excluding grants. The ratio of external debt to GDP was 51 per cent during this period. Financial intermediation, measured as the ratio of broad money (M2) to GDP, averaged 0.51 per cent, indicating low and shallow finance. Public administration, with an annual average of 38.5 per cent during the period under review, enjoyed a large share of government expenditure, while the economic sectors absorbed only 22 per cent. The social sectors had an annual average of almost 40 per cent.
337. The government has developed a growth strategy for 2008/2009 to 2010/2011 in order to sustain and improve on this performance. The strategy contains a set of development plans and policies aimed at achieving sustainable development in the long term. The priority of the strategy is to accelerate shared and sustainable economic growth in order to address vulnerability at the macro and household levels. The Medium-Term Expenditure Framework (MTEF) is based on the growth and poverty reduction strategies of the country and is aligned to a new budgeting process. This makes the growth strategy a framework, with annually revised and selected priority actions, that line ministries with growth portfolios should use when preparing their budget framework papers and budget submissions. When combined with earlier initiatives, like the national Vision 2020 and the Poverty Reduction Strategy (PRS), it forms the policy framework of the government for accelerating growth and reducing poverty.
338. The role of the government in the strategy is twofold. The first is to facilitate private sector initiatives. It will carry this out by creating a conducive and enabling environment for the private sector by establishing a sound legal and institutional framework. The second is to provide public and social goods that, because of market failures, are not provided by the private sector.



Table 4.1: Selected economic indicators

Indicators	2002	2003	2004	2005	2006	2007	2008
Net GDP (loti)	7,059.50	7,521.60	8,332.00	8,750.40	10,269.30	11,777.80	13,979.00
Real GDP growth rate (percentage)	1.6	3.9	4.6	0.7	8.1	5.1	3.1
Exports	4,032.10	3,868.90	4,521.60	4,254.90	5,141.30	6,105.70	7,385.50
GDP in USD	677.8	994.7	1,373.5	1,514.6	1,779.1	1,779.1	1,779.10
Inflation (percentage)	12.0	7.2	5.0	3.4	6.1	8.0	11.2*
M2/GDP (percentage)	0.50	0.52	0.54	0.54	0.58	0.43	0.46
Population	1,860,367	1,863,441	1,866,529	1,869,623	1,872,721	1,875,825	1,878,933
GDP/capita M	3,795	4,036	4,464	4,680	5,484	6,279	7,440
GDP/capita USD	364.31	533.77	705.64	734.63	808.8	948.45	913.87
Current account deficit/surplus	-14.3	-7.1	1.2	0.6	-4.3	11.9*	-3.0*
Debt (million loti)	6,059.50	5,591.70	4,761.00	4,656.50	5,179.90	5,355.20	7,197.725
Total debt outstanding							
External debt	5,130.5	4,432.0	4,112.8	4,011.6	4,514.3	4,680.6	6,575.806
External debt /GDP (percentage)	72.7	58.9	49.4	45.0	44.0	39.7	47.0
External debt/exports (percentage)	127.2	114.6	91.00	94.30	87.80	76.70	89.00
External debt/total debt (percentage)	84.7	114.6	86.4	86.2	87.2	87.4	91.4
Domestic debt	9.29	11.597	6.481	6.449	6.656	6.746	6.219
Domestic debt/GDP (percentage)	13.16	15.42	7.78	7.37	6.48	5.73	4.45



Indicators	2002	2003	2004	2005	2006	2007	2008
Domestic debt/total debt (percentage)	15.33	20.74	13.61	13.85	12.85	12.60	8.64
Total debt/GDP (percentage)	85.8	74.3	57.1	53.2	50.4	45.5	51.5
Overall fiscal balance	-172.38	21.49	483.19	453.92	1,162.95	1,367.3	1,765.43
Deficit percentage of GDP	-2.44	0.29	5.80	5.19	11.32	11.61	12.63
Balance before grants	-277.91	-92.48	318.88	279.7	1,050.81	1,212.38	1,607.59
As percentage of GDP	-3.94	1.23	3.83	3.20	10.23	10.29	11.50
Total expenditure (million loti)	3,775.6	4,287.0	4,907.7	6,328.6	7,532.3	10,196.3	9,029.3
Economic	774	970	1,066	1,357	1,701	2,825	1,552
Share of total (percentage)	20.0	23.0	22	21	23	28	17
Social	1,585	1,737	1,848	2,459	3,052	3,577	3,855
Share of total (percentage)	42	41	38	39	41	35	43
Public administration	1,417	1,580	1,994	2,513	2,780	3,794	3,623
Share of total (percentage)	38	37	41	40	37	37	40

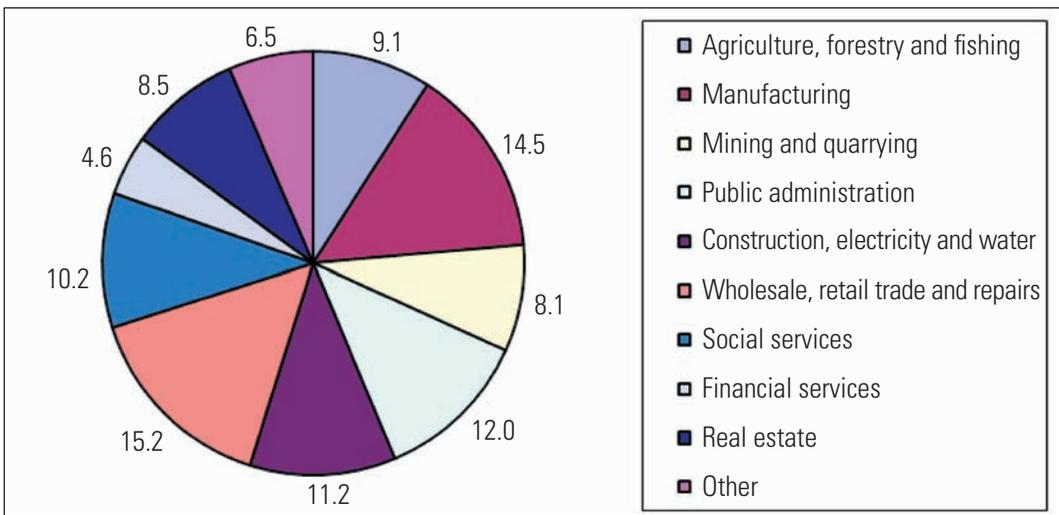
Source: MoFDP, Maseru.

*MoFDP forecasts



339. The economy of Lesotho has undergone significant structural shifts since independence. This shift is manifested in the transition from an agrarian economy to a semi-industrialised one driven by manufacturing and services (see figure 4.1). In 2007, for example, agriculture accounted for only 9 per cent of GDP, while industry as a whole accounted for about 50 per cent. The contribution of total services is about 40 per cent.
340. It is worth noting that Lesotho lacks comprehensive, consistent, reliable and up-to-date statistics that conform to international standards. For example, data on GDP used by different institutions, such as the MoFDP and the Central Bank of Lesotho (CBL), differs at times from the data published by the Bureau of Statistics (BOS). Further, data obtained from domestic sources is often different from that published by international institutions such as the World Bank. It is particularly important to note that the GDP classification used by the MoFDP does follow the standard United Nations (UN) Classification of Systems of National Accounts.

Figure 4.1: Structure of GDP, 2007 (per cent)



Source: Calculations based on data from the MoFDP, Maseru.

341. The starting point of the growth strategy is to identify potential growth sectors and to remove the constraints that have prevented the potential of the sectors from being realised. In this regard, the growth strategy has identified manufacturing, agriculture, mining, tourism and the private sector as the potential growth sectors for Lesotho.
342. *Manufacturing.* Partly because of its limited domestic market, the most viable growth option for Lesotho is export-led growth. The manufacturing sector is at the heart of this option. It contributed an annual average of about 19 per cent to GDP between 2001 and 2006. The textile, clothing and footwear subsectors contributed the most, followed by food products and beverages. Manufacturing is also the largest formal employer of labour and it currently employs about 47,605 people. Apart from the incentives provided by the government, this sector has benefited from the



African Growth and Opportunity Act (AGOA). This gives Lesotho duty free, quota free access to the United States (US) textile and clothing market. Lesotho is the largest exporter of garments to the United States of America (USA) in sub-Saharan Africa and exports 30 per cent of the total value of garments from sub-Saharan Africa. However, this trade is mostly in cut, make and trim and, as a result, the main value added is in labour input.

343. Although AGOA has been extended until 2015, the current global economic meltdown is reducing US domestic demand for textiles. This is severely affecting Lesotho's growth prospects. This calls for a change of strategy. That change is reflected in the draft Industrialisation Master Plan, which emphasises market and product diversification. The aim of the market diversification strategy is to use Lesotho's comparative advantage (such as trainable labour, security, social facilities and tax incentives) in order to induce South African industries to locate in Lesotho. Product diversification is aimed at moving away from textiles to other products, like electronics.
344. The general objectives of the Industrialisation Master Plan are to:
- Promote further industrial activity in Lesotho's economy in order to ensure that the sector plays its part in achieving the national Vision 2020 goals.
 - Maintain levels of garment exports to the US market, despite the threats and overreliance on one market, in order to sustain the large number of jobs already created.
 - Diversify the activities of the textile sector.
 - Diversify and promote investment in the nontextile and garment industrial sector.
 - Develop the indigenous private sector.
345. *Agriculture.* Arable land accounts for only 9 per cent of the total land area of Lesotho (30,355 square kilometres). Even this tiny percentage is declining over time as a result of erosion and settlement on productive land. Agricultural output is erratic over time and its share of national output is declining. At independence, the contribution of agriculture was about 50 per cent. While this stabilised at about 17 per cent in the mid-1990s, it had fallen to about 9 per cent by 2007. On average, however, its contribution was 12.6 per cent between 2003 and 2007. Crop production dominated, averaging 6.8 per cent, while the contribution of livestock averaged 5.4 per cent for the same period.
346. There are several reasons for including agriculture in the growth strategy. One is that it offers scope for pro-poor growth. About 76 per cent of the population is rural and more than 50 per cent of this depends wholly or partially on agriculture for its income and food security. Secondly, arable land is available for production and to create employment. No alternatives to agricultural activities have been found to use the arable land better. Finally, a comparison of productivity levels with countries in similar conditions suggests that there is significant potential that could still be exploited in the sector.
347. The performance of the sector has, however, been constrained by a host of factors. These include drought, soil erosion, poor access to credit, poor integration into markets, inadequate extension services, land ownership, and especially problems associated with grazing land. It has also been noted that cross-border theft of livestock on grazing land has become a problem.



348. The government strategy for developing the sector includes measures to facilitate access to credit, promoting agricultural enterprises with greater value, reorientating extension services, technical and market research, promoting training-of-trainers programmes, market development and irrigation support. There is also a programme to address livestock theft by identifying stock owners, creating inventories, assigning brands and earmarks, and developing an effective animal movement monitoring and surveillance system.
349. *Mining.* The mining sector has grown rapidly over the last few years because of the expansion of the diamond industry. The sector's contribution to GDP has increased from 0.2 per cent in 2003 to 6.5 per cent in 2006. Nonetheless, the sector's contribution to employment creation is still limited.
350. *Tourism.* Tourism has long been touted as a potential growth sector in the economy, but this has not materialised so far. The main justification for its inclusion in the growth strategy is that it is labour intensive and therefore has the potential for raising income and reducing poverty. Data on tourism is sketchy and at best indicative. But if it is measured by hotels and restaurants, its contribution has been hovering around 2 per cent of GDP since 2003, but some estimates put its contribution to GDP at about 4.7 per cent. Although this contribution is small, there is scope for improvement, particularly if the Tourism Master Plan is successfully implemented.
351. *Private sector development.* The private sector is generally accepted as the largest potential engine of growth for Lesotho. However, it is relatively underdeveloped at the moment. Part of the problem is the stiff competition presented by South Africa for the location of industries and the destination of FDI. Thus any attempt to reposition the sector must emphasise exploiting Lesotho's competitive advantage vis-à-vis South Africa. The advantages include the higher literacy rate, the relatively better labour relations, which mean fewer strikes, and government policies which offer stability. In addition, there are social and sporting facilities and the country is close to South Africa. These mean that an industrialist can theoretically locate his plant in Lesotho and enjoy its positional advantages without having to travel long distances in order to fulfil family and other obligations.
352. The private sector, like the rest of the economy, has been directly affected by the global financial crisis and recession, particularly because of reduced demand for textile exports to the USA. The challenge for the government is to develop a policy that would protect those jobs in the textile industry that could be lost as a result of the meltdown. The response of the government has been to provide financial resources (M30 million) to the Lesotho National Development Corporation (LNDC) to enable it to provide financial support for China Garment Manufacturing (CGM), the biggest employer of labour, in order to preserve the jobs that could be lost because of the global economic downturn.
353. Several government departments are also involved in various initiatives designed to promote the private sector. The Ministry of Trade and Industry, Cooperatives and Marketing (MTICM) has developed the One-Stop Shop (OSS). Its aim is to create a more conducive environment for private sector development by, for example, cutting the red tape involved in setting up businesses. At present, there is only one such shop, but the plan is to establish more. There is a plan, for example, to establish one for dealing with vehicle registrations. Its aim will be to assemble all the



processes involved in vehicle registration in one place, thereby shortening the time involved for these procedures. The main idea behind the shops is to make Lesotho more investor-friendly.

354. The Private Sector Development Division of the MoFDP has been mandated to play a leading role in coordinating efforts to reform the investment climate and make it more investor-friendly. In this regard, it has designed a range of measures such as offering investors fiscal and other incentives. The measures also include providing capital, training and market information for developing the informal sector. Some institutions have also been created to make it easier for businesses to be established and to operate, while government infrastructural development activities are also aimed at creating an enabling environment for private sector operations.
355. The Millennium Challenge Account (MCA) is yet another initiative for promoting private sector development. The MCA is an innovative foreign assistance programme designed to reduce poverty through sustainable economic growth. The Millennium Challenge Corporation (MCC) is an independent US government corporation established to administer the MCA. Lesotho has been judged eligible for funding from the MCA and was therefore given an opportunity to submit a proposal for five-year strategic funding to cover some key sectors of the economy. The total cost for Lesotho's proposal amounts to US\$326.55 million. In April 2009, the MCA was in the fifth month of its five-year life span.
356. The objectives of the MCA are being achieved through three programmes intended to unlock the productive capacity of the economy. The first two programmes comprise water and health projects, while the third focuses on the private sector. The projects for private sector development include: the National ID Card and Credit Bureau; establishing a Payments and Settlements System; and Land Administration Reform and Civil Legal Reform. The national ID card will make it easier for creditors to track down borrowers and, therefore, improve access to credit. The payment system will ensure timely clearance of cheques and reduce fraudulent transactions. The land reform component is aimed at making it easier for industrialists to apply for and obtain land. Finally, under legal reform, a specialised commercial court will be established to settle commercial disputes timeously. These initiatives will make it increasingly easier for private sector operators to operate more effectively in Lesotho.
357. Bold measures have also been taken to make Lesotho more investor-friendly. These are shown in tax cuts for exporters. Government tax incentives include: reducing corporate tax on profits earned by manufacturers exporting outside SACU from 15 per cent to 0 per cent; reducing preferential corporate tax on profits earned on exports within SACU from 15 per cent to 10 per cent; and a normal corporate tax rate of 25 per cent.
358. Vision 2020 and the PRS contain proposals for Lesotho's long-term development and measures for private sector development. Among the measures is the development of small, medium and microenterprises (SMMEs). The LNDC has adopted a working paper on an 'Excellence Model' as a tool through which the LNDC will support the evaluation of local enterprises and entrepreneurship.
359. The Lesotho Enterprise Assistance Programme (LEAP) was established to strengthen the human and institutional capacity of SMMEs and professional associations. This will be done by providing



financial and technical assistance to build international competitiveness within private firms and by enhancing the capacity of private businesses, professional associations and chambers to serve their members better. LEAP will also support the secretariat of the Lesotho Business Council, a newly established institution for regular public-private sector dialogue.

360. In addition to the LNDC, another parastatal, the Basotho Enterprises Development Corporation (BEDCO) endeavours to develop Basotho-owned and managed small businesses. BEDCO's Business Advisory and Promotion Services Department is tasked with providing business extension services for SMMEs, while its Entrepreneurship Training Development Department is responsible for business management training and catering for projects resulting from the privatisation programme.
361. The LNDC also offers preinvestment and after-care services to prospective and existing investors to simplify and shorten processes related to investment issues, thereby facilitating the procurement of all permits and licences and providing assistance with company registration. It undertakes investment project appraisals and promotes equity participation in projects considered to be strategically important to the national economy and which demonstrate long-term viability. It gives subsidies to investors wishing to construct their own industrial buildings at LNDC-serviced sites. It carries out factory inspections to assess the labour situation in order to ensure harmonious relations between employers and their employees as well as compliance with the country's labour laws by investors.
362. Given the importance of financial support for SMMEs, the government is looking at ways to improve the access to, and the affordability of, finance for small-scale entrepreneurs and youth in the informal and rural sectors. The MCA has also made funds available to support small female entrepreneurs, including women working in markets. To provide financial services in the rural and mountain areas, the government has partnered with the International Fund for Agricultural Development (IFAD) to strengthen the management of the Lesotho Post Bank and expand its branch network to these remote areas.
363. It is recognised that collaboration between public and private sectors is essential to promote the private sector in Lesotho successfully. Accordingly, the two sectors held a private sector development forum in 2005. The objective was to commence and cement a public-private partnership (PPP). Its aim was to create a conducive climate for private sector development. The forum's collaborative effort created the basis for Lesotho's proposal to secure the funds, referred to above, from the MCA.

The government's response to the global economic crisis

364. As a small, landlocked country with a very open economy, Lesotho has been vulnerable to the effects of the global financial crisis. However, the government has responded in a positive way to the crisis. It appreciates that the country's vulnerability derives from its size, its reliance on SACU receipts, its dependence on the US market for textile exports and on grants from donors.
365. With regard to the first source of vulnerability (its dependence on SACU receipts), the government is taking measures to reduce that dependence by exploring other sources of domestic revenue. Such measures include policies which promote more efficient tax collection and reduce tax evasion.



366. The response of the government to the decline in the US demand for textiles has been guided by the need to restructure the textile industry by creating institutional and financial facilities to support export-import business for existing and new foreign and local firms. These firms are encouraged to invest in modernising and upgrading their facilities to take advantage of new global opportunities when the global economy recovers. They are also encouraged to explore new products and markets, including exports to SACU, the Southern African Development Community (SADC), the European Union (EU) and the USA. The new Phillips plant for producing energy-saving bulbs is an example of diversifying export products and markets.
367. Noting that the country has been exporting textiles for 20 years without any institution to maximise the benefits from this trade, the government has decided to invest in some of the companies in the sector, establish export-import facilities to be administered by the CBL and ensure that Lesotho's commercial banks can issue pre- and postshipping letters of credit. The government will also set aside M600 million over two years to support specific investments related to providing water, roads, factory shells and communications for new firms. An example of this is Phillips, which needs water and access roads for its new plant. The government will also reinvigorate its partnership with South Africa in order to develop specific and joint ventures across the common border.

Recommendations

368. The APR Panel recommends that Lesotho:
- Promote the compilation and publication of comprehensive, consistent, accurate and timely statistics that conform to the UN System of National Accounts, since Lesotho's statistics are generally incomplete and do not conform to widely accepted UN standards. (*BOS, CBL, MoFDP*)
 - Endeavour to implement the key programmes in its growth strategy which are capable of giving momentum to the growth process, in particular those relating to the development of the private sector. In this regard, the government should intensify efforts to improve PPPs in the development of the economy. (*MoFDP*)
 - Vigorously pursue measures designed to diversify the production base of the economy. In addition to increased public sector investment, government should develop a business development plan to promote private investment. The plan should provide for the development of entrepreneurship and technical skills, improve access to credit and markets and encourage value chain development. (*Key economic ministries*)

4.2 Standards and codes

i. Summary of the CSAR

369. The CSAR only lists the relevant standards and codes set out below, as contained in the African Peer Review Mechanism (APRM) questionnaire, and does not discuss or review the extent of signature, ratification and overall domestication.



- New Partnership for Africa's Development (NEPAD) Framework Document (2001).
- Constitutive Act of the African Union (AU) (2000).
- Code of Good Practices on Fiscal Transparency.
- Guidelines for Public Debt Management.
- International Standards on Auditing.
- International Accounting Standards.
- Code of Good Practices on Transparency in Monetary and Financial Policies.
- Principles for Payment Systems.
- Core Principles for Security and Insurance Supervision and Regulations.
- Core Principles for Effective Banking Supervision.
- AU Convention on Preventing and Combating Corruption.
- Abuja Treaty Establishing the African Economic Community (1991).
- Best Practices for Budget Transparency.
- Principles of Corporate Governance (international and national).
- Relevant treaties, conventions and protocols of regional economic communities.

370. The Background Paper on Lesotho also omits any discussion of these codes and standards and their domestication. It does, however, argue that Lesotho has complied with, and is a signatory to, a number of standards and codes, including the NEPAD Framework Document, membership of SACU and the Africa Caribbean Pacific–European Union (ACP-EU) Convention. The Background Paper also notes that the authorities in Lesotho, in collaboration with the World Bank, had completed a review of the Public Expenditure Management and Financial Accountability Review (PEMFAR). This is adjudged to be relevant to the Code of Good Practices on Fiscal Transparency and Best Practices for Budget Transparency.

ii. Findings of the CRM

371. The Country Review Mission (CRM) did not find much evidence of the ratification, domestication and implementation of the standards and codes mentioned above. However, it discovered that the NEPAD Framework Document is not a treaty and does not require ratification or accession. Lesotho has adopted the document and launched the Lesotho chapter of NEPAD in August 2004. The Guidelines for Public Debt Management constitute a nontreaty and do not require signature or ratification. The AU Convention on the Prevention and Combating of Corruption was signed in 2004. The Code of Good Practices on Transparency in Monetary and Financial Policies has been ratified, while the Principles for Payments Systems are being used but have not been signed. The same is true for the Core Principles for Systematically Important Payments Systems. The CRM also found out that the Core Principles for Effective Banking Supervision (Basel I) had been signed but that Basel II had not. In fact, a committee comprising the CBL and the Association of Bankers



and Auditors was established to advise the government on the latter (Basel II). Finally, the CRM found that the Insurance Supervisory Principles had been fully adopted without there being any indication as to whether they had been signed.

iii. Recommendations

372. The APR Panel recommends that Lesotho:

- Direct each ministry or agency to keep proper records of the standards, codes and practices that it has agreed to as the basis for monitoring their status adequately. Periodic reports should be submitted to the Ministry of Foreign Affairs and International Relations for centralised recording. These reports should indicate progress regarding the domestication of agreed standards and codes in the context of government efforts to improve economic governance (*Ministry of Justice and Human Rights and Correctional Services, Ministry of Foreign Affairs and International Relations*).

4.3 Assessment of performance on APRM objectives

Objective 1: Promote macroeconomic policies that support sustainable development

i. Summary of the CSAR

373. Lesotho's macroeconomic policy framework is defined in the context of several regional integration arrangements, to which the country is a signatory, particularly SACU, the SADC and the Common Monetary Area (CMA). The latter includes South Africa, Namibia and Swaziland. Monetary policy management in Lesotho is determined by the country's historic relationship with South Africa. The CMA allows for unrestricted (unrecorded) flow of funds for both current and capital transactions within the area. The smaller economies, especially Lesotho and Swaziland, have limited control over monetary policy and none over exchange rates.
374. Lesotho's development policy making and economic future are thus firmly linked to these arrangements. The discussions of Lesotho's policy framework which follow are conducted in the context of these arrangements and assess the extent to which the framework and its ensuing policies are supportive of sustainable development.

Fiscal policy

375. The CSAR correctly observes that, given the relative impotence of monetary and exchange rate policies, the main instrument of demand management in Lesotho has been fiscal policy. This is done by introducing measures to improve revenue collection and by setting ceilings on public expenditure. Lesotho's revenue consists of four major components: customs or SACU revenue; non-SACU tax revenue (mostly income tax and value-added tax, or VAT); nontax revenue; and grants.



Over the years, various laws have been enacted to improve the efficiency of revenue collection and to develop zero tolerance towards tax evasion. Recent efforts in this regard include two pieces of legislation – the Value-Added Tax (VAT) Act of 2002 and the Lesotho Revenue Authority (LRA) Act of 2001. The latter established the semiautonomous LRA, which merged the functions of the departments of Customs, Income Tax and Sales Tax. It is responsible for the efficient collection of tax and its management.

376. Partly because of these efforts, total fiscal revenue and grants increased from M3,137.6 million in 2002/2003 to M7,164.8 million in 2007/2008. This shows that the proportion of government revenue to GDP is about 43 per cent, a high figure by African standards. It should be noted that the bulk of this revenue (more than 50 per cent) is derived from SACU receipts. SACU revenue is not only a significant source of government income. It is also a major measure of aggregate income. As a result, the heavy reliance on SACU receipts makes Lesotho vulnerable to developments in the region.
377. In order to improve fiscal efficiency, public expenditure allocations are based on the need to address market failures, to promote growth and to reduce poverty. The government has a large amount of discretionary influence on the pattern of public spending because of its few statutory obligations. Its statutory obligations (for debt service, pensions and gratuities) account for less than 15 per cent of total expenditure. The remaining 85 per cent is subject to the discretionary spending priorities of the government. The proportion of public expenditure reveals gaps between national goals and expenditure choices. About 30 per cent of current expenditure, for example, is spent on government bureaucracy, while the share spent on economic services, which include water, energy and mining – priority areas to boost growth – has been declining, except for 2002/2003 when the level of agricultural spending was raised for activities related to relieving famine.
378. The CSAR discusses the various policies that the authorities have introduced to improve financial stability and intermediation and to mobilise savings. These include policies for new entrants into the market, for improved prudential regulation, for strengthening the legal and regulatory framework, and for the Rural Finance Project (RFP) and the Enterprise Support Project (ESP). The last two are aimed at supporting rural financial intermediation. Under the RFP and ESP, the Credit Guaranteed Fund, the rural savings and credit schemes and the Lesotho Post Bank have been established. The CSAR notes, however, that important challenges (such as unregulated pyramid banking and MKM savings schemes) could undermine the stability of the financial system.
379. The effectiveness of the policies described above can be ascertained by the performance of the economy. To manage price stability, the CBL maintains an adequate level of reserves. These underwrite the fixed exchange rate system and reduce domestically generated inflation. Lesotho's inflation fell from 12.6 per cent in 2002 to about 3.5 per cent in 2005. However, it then rose to 6 per cent in 2006. The growth in real GDP averaged 3.96 per cent per annum between 2002 and 2006, with 2006 recording a rate of 7.2 per cent. This performance is attributed to mining and quarrying, especially exports from diamonds.
380. Fiscal deficit, as a percentage of GDP (excluding grants), averaged -1.4 per cent between 2002 and 2006, whereas the ratio after grants was 1.16 per cent. In 2002, external debt, as a percentage of GDP, which had been 96.6 per cent, declined to 49.9 per cent in 2006. The current account deficit has remained largely negative throughout the years.



381. The CSAR identifies the private sector as an important agent for achieving sustainable development. The government of Lesotho, with the support of the World Bank, therefore launched the Private Sector Competitiveness Project (PSCP) in 2006. The aims of the PSCP derive from the PRS document. However, several microeconomic policies and institutional reforms were introduced prior to the PRS to support economic growth and sustainable development. These policies focus on the primary sector and the mining subsector, which includes small enterprises.

ii. Findings of the CRM

Monetary and exchange rate policy

382. The dominant factor in implementing monetary and financial policies in Lesotho is its membership of the CMA. Thus, the primary objective of monetary policy is to maintain price stability and a one-to-one fixed exchange rate between the loti and the South African rand by ensuring an adequate level of reserves. The South African rand is recognised as legal tender and Lesotho's currency is pegged at par to the rand. This complicates the assessment of monetary developments in Lesotho. It is difficult at any point in time to determine the number of rand in circulation within the country, not to mention the ineffectiveness in determining liquidity and measuring reserves.

383. However, membership of the CMA confers significant benefits:

- It eliminates transaction costs and foreign exchange risks on trade between Lesotho and South Africa.
- It reduces exchange rate volatility by pegging to a relatively stable currency.
- Sound macroeconomic management by the reserve bank contributes to low inflation throughout the CMA.
- It encourages fiscal discipline, as Lesotho must maintain an appropriate level of net international reserves to preserve the peg.

384. The CMA has the attributes of a currency board, whereby all currency issues are backed entirely by the country's foreign reserves. The arrangement therefore insulates monetary policy from political interference and improves the credibility of macroeconomic policies.

385. However, the institutional arrangement limits the scope for monetary policy, though there is still a role for effective monetary management. This role is exercised by the Monetary Policy Committee (MPC). It ensures that an appropriate net international reserves target is achieved through the intermediate interest rate target and the operating target of reserve money. In 2001, the CBL introduced open-market operations as part of a system to implement monetary policy. This allowed the CBL to control domestic liquidity by issuing treasury bills, thereby mopping up excess liquidity as banks converted their surplus funds into treasury bills. In addition, the decline in banks' surplus funds reduced reserve money and ensured that money supply did not reach a level that would exert inflationary pressure on the economy.

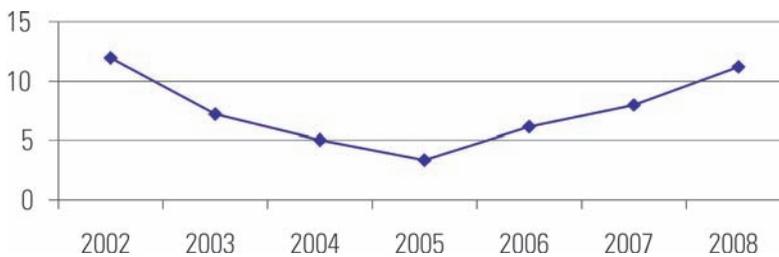
386. The broad definition of money supply (M2) is accepted as the norm in Lesotho. This is defined as currency in circulation plus quasi-money (i.e., demand, call, savings and time deposits, as well as



deposits of official entities at the CBL). Although measuring the loti component is an important indicator of the general trend in the growth of M2, there is, at present, no plausible method of measuring the rand in circulation in Lesotho. It is therefore difficult to obtain an accurate picture of movements in total money supply.

387. In most countries, there is usually a strong, direct relationship between growth in money supply and growth in economic activity. However, this link is difficult to assess in Lesotho, because both the rand and loti circulate freely. This allows distortions to occur as residents can substitute currencies by holding rand instead of loti.
388. Inflation is driven primarily by developments in South Africa and it is estimated that 70 per cent of Lesotho's inflation is imported from South Africa. Although there is some element of internally generated inflation, the Consumer Price Index in Lesotho has tended to mirror that of South Africa. In 2002, regional food shortages caused a significant increase in prices of agricultural commodities and pushed the aggregate inflation rate up from 6.9 per cent in 2001 to 12.0 per cent (see figure 4.2). From this peak, there was a rapid reduction to 7.2 per cent in 2003, to 5.0 per cent in 2004 and a further reduction to only 3.4 per cent in 2005. This reflected favourable price developments in South Africa linked to the achievement of an inflation target of between 3 and 6 per cent by the South African Reserve Bank and the sustained appreciation of the currency, making imports relatively cheaper. However, this downward trend was reversed, as the inflation rate increased to 6.0 per cent in 2006 and then to 8.0 per cent in 2007. This was caused by substantial increases in food and fuel prices.

Figure 4.2: Consumer price inflation, 2002–2008 (per cent)



Source: MoFDP, Maseru.

389. The current account balance has improved significantly from a deficit of 23 per cent of GDP (M1,652.1 million) in 2002/2003 to a surplus of 3.7 per cent (M458.7 million) in 2007/2008. The main contributor to this improvement has been an increase in transfers that has grown by an annual average of 13.1 per cent between 2002/2003 and 2007/2008. In addition, there has been a substantial increase in net income from abroad for the period 2005/2006 to 2007/2008. It increased by 70 per cent from M1,985.06 million in 2005/2006 to M3,374.1 million in 2007/2008.
390. Between 2000/2001 and 2002/2003, the nominal value of exports increased by 130 per cent in response to strong demand from Lesotho's main trading partners, the USA and the Republic of South Africa, encouraged by the depreciation of the local currency against the US dollar and the implementation of AGOA from the middle of 2000/2001. However, exports declined by 2.7 per



cent in 2003/2004 (principally because the appreciation of the currency from late 2002 weakened textile demand). Although the appreciation continued in 2004/2005, exports grew by 27.1 per cent as a result of improvements in global trade (especially the US market) and the commencement of diamond exports. Despite the continued increase in diamond sales, total exports fell by 11.4 per cent in 2005/2006, mainly because of the adverse impact on the textile industry of the currency movements and the ending of the Agreement on Textiles and Clothing with effect from 31 December 2004. In 2006/2007, the textile industry bounced back from the weak performance in the previous year and the mining sector continued to expand, resulting in an increase in exports of 27 per cent. Exports increased by a further 12.2 per cent in 2007/2008 as a result of substantial increases in diamond exports, which grew by 97 per cent. The ratio of exports to gross national income (GNI) averaged 37.5 per cent for the period between 2002/2003 and 2007/2008.

391. Financial services are limited in Lesotho. There are four registered commercial banks, five insurance companies and 21 registered moneylenders located in the urban areas. They are all under the supervision of the CBL. It has been observed in recent times that the economy is excessively liquid, as banks prefer to hold short-term government securities than lend to the public. This may be because there is a shortage of suitable loan proposals or because potential borrowers are unable to provide the necessary collateral to ensure repayments. In either case, the financial intermediation ratio is low, averaging 51 per cent between 2002 and 2008.
392. It is generally thought that large parts of Lesotho, particularly the rural areas, are underserved and that access to credit is severely limited. Thus, in 2003, the CBL approved the establishment of the Rural Credit Guarantee Fund to help reduce the risk of lending to rural communities by commercial banks. Various reforms of the financial sector have been implemented during the past decade. They include establishing a commercial court, passing the Financial Institutions Act (FIA) and the Central Bank Act, restructuring the former Lesotho Bank, introducing measures to remove structural rigidities in the financial sector, and providing in-house credit bureau services. These reforms were intended to encourage banks to pursue a more aggressive lending policy, since loans to business enterprises had been depressed by the write-off of nonperforming loans made by the former Lesotho Bank.
393. Over the past six years, interest rates have always moved in line with developments in the CMA (as measured by changing rates in South Africa). Whenever the South African Reserve Bank changed its interest rates, the changes were always transferred into the Lesotho money market. In principle, the CBL has the power to influence domestic interest rates and the reserve ratios of commercial banks. However, this power is difficult to exercise given the relationship between movements in inflation rates in Lesotho and South Africa and the free capital movement within the CMA.

iii. Recommendations

394. The APR Panel recommends that:
- Government take measures that could deepen financial intermediation, especially opening rural areas to banking and financial facilities. Financial policy, in particular, should attempt to



promote the establishment of potentially viable and self-sustaining microfinance and other financial institutions such as savings and credit associations. (*CBL*)

- As part of its efforts to learn from recent global events, the CBL should tighten its supervisory and regulatory functions over the financial system. Available evidence indicates that Lesotho has signed the Basel I Convention on bank regulation and supervision. It should also take steps to sign and ratify the more far-reaching Basel II convention. (*CBL*)

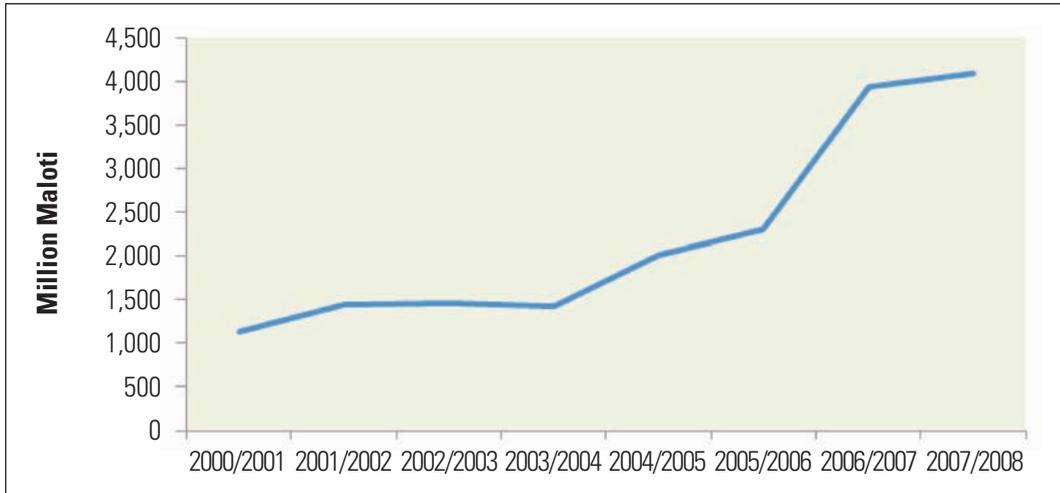
Fiscal policy

395. Given the near absence of monetary and exchange rate policy, the burden for effective demand management falls on government tax and expenditure policies. In this context, fiscal prudence is critical to economic policy. Thus one of the medium-term aims of the government is to limit fiscal deficits to levels that can contain aggregate demand, and which can be financed by external grants and concessional loans in order to avoid crowding out the private sector. This requires intensified efforts to mobilise revenue and contain expenditure. The government has been relatively successful in this regard.
396. The maintenance of budgetary discipline has been attributed to the adoption of the MTEF, which came into effect in 2004/2005. The MTEF is a transparent planning and budget-formulation process within which the Cabinet and central government agencies establish contracts for allocating public resources to their strategic priorities. It ensures overall fiscal discipline and facilitates the annual planning and budgeting process. Perhaps more importantly, it serves as the necessary link between the budget and the PRS.
397. Lesotho pursued the objective of macroeconomic stability by recording budgetary surpluses throughout most of the 1990s. This contributed to reducing the cost of servicing debt and ensured that the public sector did not crowd out the private sector through public sector borrowing from the domestic capital market. However, several factors have been responsible for turning the surpluses into deficits since 1998/1999. These include the political unrest of 1998, the resulting large-scale disruption of economic activity, and declining revenues and grants.
398. The deficit situation has since been turned into a surplus by a combination of two factors. One was the large windfall from SACU receipts in 2004/2005 and the other was the large inflow of grants. These two factors have enabled the government to achieve an overall annual average fiscal balance of 4.9 per cent between 2002/2003 and 2007/2008. During the same period, domestic revenue, which was 45.1 per cent of GDP in 2002/2003, has averaged 52 per cent of GDP at market prices. The increase can be partly attributed to the establishment of the LRA in January 2003. This body was charged, among other things, with promoting a more efficient system of collecting revenue.
399. Figure 4.3 shows the trend in SACU revenue between 2001/2002 and 2007/2008. The figure shows that there has been a considerable increase in *customs* receipts from the SACU revenue pool. These recorded an average annual growth rate of 22.8 per cent between 2002/2003 and 2007/2008. SACU revenues had stabilised at around M1.4 billion between 2001/2002 and 2003/2004, but jumped to M2 billion in 2004/2005 as Lesotho benefited from the impact of intermediate inputs imported for use in the textile industry. The new SACU revenue-sharing formula came into effect on 1 April 2005. Its application, combined with the expansion of the customs pool and the excise pool, generated significantly higher revenues in both 2005/2006 and 2006/2007. In addition, Lesotho



received adjustment payments due under the previous SACU revenue-sharing arrangements. Over the six financial years, SACU revenue has provided more than half of all domestic revenue (50.1 per cent). In absolute terms, SACU revenue rose to over M4 billion in 2007/2008.

Figure 4.3: Trends in SACU revenue



Source: Adapted from Background Document to the 2008/2009 Budget.

400. Income tax has grown by an average of 12.8 per cent annually between 2002/2003 and 2007/2008 and has generated 20.5 per cent of total domestic revenue. There were large increases in the nominal collections of *income taxes*. These culminated in an exceptional increase of 36.2 per cent in 2003/2004). However, growth was actually negative at -1.2 per cent in 2004/2005 and then turned positive with 2.6 per cent and 5.5 per cent growth rates in 2005/2006 and 2006/2007 respectively. There was a large (25.3 per cent) increase in income tax revenue in 2007/2008. Contrary to a priori expectations, company tax increased in both 2006/2007 and 2007/2008 following a reduction in the standard rate of company tax from 35 per cent to 25 per cent, a reduction from 15 per cent to 10 per cent for manufacturing firms exporting within SACU, and a reduction from 15 per cent to 0 per cent for extra-SACU exporters in 2006/2007. This was partly because of the exceptional performance of a small number of large companies in the banking, telecommunication and mining sectors and improvements in the tax collection system.
401. Nontax revenue comprises property income, which contributed 23 per cent of nontax revenue in 2007/2008, and sales of goods and services, which contributed 67 per cent of nontax revenue. Dividends are the most important source of property income and water royalties the most important source of income from goods and services.
402. Although nontax revenue has grown at an annual average rate of 8.4 per cent for the previous six years, its share of total domestic revenue throughout the six years to 2007/2008 is only 11.1 per cent. The improvement in fiscal revenue and the consequent increase in government balances should result in a significant increase in property income in future.



403. The nominal value of *project grants* varies with the pace of implementing capital projects and the quality of donor reporting to the government accounting system. Government received *budget support grants* from the EU between 2001/2002 and 2004/2005.
404. There are now threats to SACU revenue, the largest source of revenue. These emanate from the global meltdown. Two factors from this meltdown were identified. One is the decline in imports of vehicles into SACU as demand declines generally. The other is the decline in imports of raw materials for the textile industry as US demand for textiles slows down. Both factors are negatively affecting SACU receipts. There is thus a need to develop and expand the domestic revenue base. Expanding the tax base will require improved GDP growth rates and more efficient tax collection methods. While the effective implementation of the growth strategies that are in place could be relied upon for improved growth performance, the new Lesotho Tax Authority should be able to capitalise on that to be able to broaden the tax base and collect revenue more efficiently. There is also scope for broadening the base of nontax revenue like fees and fines. Receipts from nontax revenue (royalties from the LHWP, dividends from the operations of publicly owned corporations, and compensation paid by the South African Reserve Bank for rand circulating in Lesotho) can be significant. However, the government has limited options for increasing the revenue base.
405. As part of its annual budgeting process, the government produces a Medium-Term Fiscal Framework (MTFF) that looks at revenues and expenditure for three to five years. The overall objective of the MTFF is to ensure that Lesotho's budget supports the country's macroeconomic policy objectives and maintains a sustainable fiscal position. The MTFF achieves this by providing an assessment of expected resource availability and expenditure commitments for the next three financial years based on current policy decisions. This allows the government to set indicative ceilings that show the division of future ministerial expenditure allocations by economic classification (wages and salaries; goods and services; transfers and subsidies; and capital).
406. One concern for fiscal policy is that the public sector absorbs nearly half of GDP. This is exceptionally high by African and developing-country standards. A major contributory factor is Lesotho's membership of regional customs and monetary arrangements. Prices (including wages) are set at levels that require a high level of expenditure, while the revenue-sharing arrangements of the customs union provide the required level of financing. In order to reduce this dependence, the government is pursuing the policy objective of encouraging rapid and sustained private sector development to diversify the economy and reduce the scale of public sector activity. Another contributory factor is the sheer size of the public sector. The public sector absorbed about 75 per cent of total domestic expenditure between 2002/2003 and 2007/2008. Compensation to employees absorbed 38.5 per cent, while the purchase of goods and services absorbed 36.2 per cent. Perhaps this is because of the excessive reliance on fiscal policy as a tool for managing demand. An additional concern is that there is evidence of annual underspending by government departments, particularly of capital budget. This is because of the weak absorptive capacity of government departments and poor budgeting practices that tend to include projects for which there is no adequate preparation in the budget. Thus any observed budget surplus does not show prudent management. Instead, as one official expresses it, its "development deficit" is nothing more than lost development opportunities.



Box 4.1: The implications of overdependence on SACU revenue

Domestic revenue averaged 52 per cent of GDP at market prices between 2002/2003 and 2007/2008. This has been buoyed by a considerable increase in customs receipts from the SACU revenue pool, which has recorded an annual growth of 22.8 per cent between 2002/2003 and 2007/2008. In the same period, SACU revenue accounted for an annual average of about 50 per cent of total revenue, indicating a very strong and heavy dependence of government operations on these receipts. This makes economic fortunes in Lesotho highly vulnerable to events that may affect those receipts.

A good illustration of this sudden change in fortune occurred between 2001/2002 and 2003/2004. SACU receipts increased from M1.4 billion to M2 billion as a result of a huge increase in the demand for intermediate inputs imported for use in the textile industry and when the new SACU revenue-sharing formula came into effect in April 2005. This latter development increased Lesotho's revenue between 2005/2006 and 2006/2007. This shows the extent to which SACU receipts are vulnerable to the vagaries of international trade and how the fortunes of the domestic economy could be changed abruptly by those vagaries.

The slowdown in global economic activity in the USA has already led to a decline in imports of textiles from Lesotho. This is likely to reduce imports for raw materials for the textile industry and cause a similar reduction in the SACU revenue pool. A reduced SACU revenue pool is likely to lead to a reduction in the share of Lesotho from that pool. Similarly, it is feared that the global economic slowdown will reduce the imports of vehicles into the SACU region and also affect the SACU revenue pool. Again, this would affect Lesotho's share of that pool.

These possibilities underscore the vulnerability of the SACU revenue pool as the fulcrum on which to erect predictable development financing. It remains, at best, an unstable source of revenue and one on which sustained long-term development cannot be built. The imperative for Lesotho, therefore, is to diversify the sources of revenue in order to reduce its dependence on SACU receipts as a major source of revenue. The establishment of the LRA would assist in this, but, in a long-term context, the solution lies in resuming sustainable growth. This could widen the domestic tax base and bring more individuals and firms into the tax bracket.

Source: Financial data from the MoFDP.

407. Lesotho's debt is managed through a well-established legal framework and various laws and regulations that relate to the terms and limits on the stock of debt for the government. The country's total debt, as a ratio of GDP, declined over the past five years from 110.6 per cent in 2001 to 49.9 per cent in 2006. External debt remained within the sustainability threshold of 60 per cent of GDP and the debt service ratio at 6.4 per cent in 2006.

iii. Recommendations

408. The APR Panel recommends that:
- In order to reduce the vulnerability arising from declining SACU revenue, the government should take measures to improve growth, intensify its efforts to broaden the tax base and



pursue efficient tax collection reforms. There is obviously limited room for broadening the tax base without substantial GDP growth. This is why it is important for the government to pursue policies aimed at stimulating higher domestic investment and growth which will enable the government to increase public revenue. [MoFDP, Ministry of Local Government and Chieftainship (MoLG), district administrators]

- The government should curtail the annual budgetary underspending by increasing the implementing capacity of government departments. (*Parliament, MoFDP, MoLG, district administrators*)
- The government's trade policy should support efforts to diversify Lesotho's exports and their destinations. This is one of the ways to reduce the impact of external shocks arising from international trade. (*MTICM*)

Objective 2: Implement sound, transparent and predictable economic policies

i. Summary of the CSAR

409. Policy making in Lesotho is significantly influenced by several regional integration arrangements to which the country is a signatory. As mentioned earlier, these arrangements include SACU, the SADC and the CMA. In line with other smaller SACU members, economic policy making in Lesotho closely mirrors that of South Africa. Thus, fiscal and monetary policies in Lesotho are not independent. Guided by the 1993 constitution, Lesotho has adopted several legal and institutional frameworks to enable and guide economic policy making. These include the Lesotho Interim Poverty Reduction Strategy Paper (PRSP), Vision 2020, the public finance management framework and the Local Government Act of 1997.
410. The Lesotho PRSP was developed in 2000 by a technical working group under the oversight of the deputy prime minister, a committee of principal secretaries of various line ministries, and the governor of the CBL. The working group included representatives from government, the private sector, nongovernmental organisations (NGOs), the National University of Lesotho (NUL) and the donor community in Maseru. Similarly Vision 2020, a long-term development vision adopted in 2004, was prepared through a consultative process encompassing focus groups at village, community, district and central levels. The focus groups included political leaders, chiefs, members of parliament (MPs), district councils, youth groups, people with disabilities, civil servants and students. All these groups were represented on the steering committee that prepared the Vision 2020 document.
411. The public finance management framework emphasises credibility in the budget, comprehensiveness and transparency in policy development, policy-based budgeting, predictability and control in budget execution, accounting, recording and reporting, external scrutiny and auditing. In an attempt to improve the links between budget processes and the requirement of overall strategies, such as the PRS and the Millennium Development Goals (MDGs), the government of Lesotho introduced the MTEF in 2004. This was used for the first time in the preparation of the 2005/2006 Budget.



412. Lesotho has adopted a Public Sector Improvement and Reform Programme (PSIRP). The PSIRP is intended to improve public sector performance, with a special focus on improving financial management and accountability, to decentralise service delivery and to promote a committed, disciplined and motivated workforce. The Public Service Act was revised in 2005 and new public service regulations have been introduced. Accordingly, ministries have been restructured and most of them have developed strategic plans. Nevertheless, challenges remain, especially in areas of motivating the civil service and of shifting towards a service-oriented work culture.
413. The key feature of local governance is that communities elect their local councils, which are then responsible for planning and managing development. In order to ensure that the effort to promote public participation is sustainable, a Directorate of Public Sector Effectiveness has been established in the Office of the Prime Minister. Some of the core functions of this directorate are to conduct national needs assessment surveys and to engage civil society in national strategic leadership processes. The Local Government Act of 1997 (as amended in 2004) provides for the decentralisation of public services through the establishment of local authorities that include community, municipal, district and urban councils. There are currently 128 local government areas in Lesotho following the 2005 local government elections, and one municipal council. The 10 district councils are constituted by members from the 128 elected councils. The CSAR indicates that Lesotho has an orderly and participatory budget process. It involves central agencies, spending agencies and political leaders in accordance with a predetermined budget calendar that is broadly adhered to. A budget circular is issued to the involved spending agencies roughly two months before the actual preparation of the budget. It indicates ceilings for each ministry's recurrent budget. Ministries have internal arrangements, mostly in the form of budget committees, for developing budget bids for both capital and recurrent expenditures. After technical discussions of the budget bids with line ministries, the minister of finance and development planning presents the draft budget to the Cabinet.
414. Following the Cabinet's approval, the draft budget is presented to Parliament for approval. After presentation of the budget speech, public officers in the MoFDP and the minister engage in public debate on the key elements of the budget speech at district level. Where possible, the final budget incorporates relevant suggestions from the public. However, the CSAR notes that the public still views the budget process as the sole business of bureaucrats who have the power to decide on the final budget. The public lacks adequate access to information and channels for effective interaction with government structures to ensure transparency in budget allocations and efficiency in service delivery.
415. The CSAR also underscores weaknesses in the public finance management system and the credibility of the budget process. Budget allocations in Lesotho have largely been made on an incremental basis. They are focused on inputs and pay little attention to the purpose of expenditure. Until recently, budget ceilings were set without consulting with line ministries and setting ceilings was seen primarily as a technical exercise based on projections from the past. Consequently, allocations for several ministries have largely grown in line with total expenditure over the last five years. Actual expenditures at the end vary widely from the original budget for many ministries. This raises concerns regarding the credibility of the budget process in the country.



416. Macroeconomic projections and forecasts are performed by a team of officials from the CBL, the MoFDP and BOS. The projections often prove to be reliable in terms of low discrepancies between forecasts and actual outcomes. However, actual performance was generally higher than predicted in the last five years. The discrepancy between forecasts and actual values stems mainly from exchange rate movements, changes in the SACU revenue-sharing formulae, changes in government policy responses to exogenous events, volatility in the manufacturing industry, and the phasing out of AGOA I. Thus, the need for flexibility in policy, in response to changing circumstances, is essential.
417. Low absorptive capacity is a major concern in Lesotho, especially in capital investment. Of the total allocations for government capital expenditure from both domestic and external sources (M1,343 million in 2006/2007), only 68.4 per cent of the total allocation and 50 per cent of the donor money of M737,000 was actually spent. Further, only about half of the funds received for AIDS in that year were actually spent.
418. Lesotho is in the process of developing a medium-term growth strategy, as a framework for coordinating budget proposals by line ministries, with a clear growth target. This strategy will lay the foundations for growth led by the private sector. It will be assisted by appropriate government interventions and policies, including reforms to improve the business environment, diversify the economy and create jobs in line with the PRSP, Vision 2020 and the commitment to achieve the MDGs.

ii. Findings of the CRM

419. There are limited policy initiatives in Lesotho and government does not pay enough attention to policy making and implementation. For instance, the budget speeches do not include policy discussion. This needs changing, because, despite the strong linkages, Lesotho needs to analyse the policies adopted in South Africa and indicate how they might affect the economy of Lesotho. The government also needs to assess what measures the country should implement to maximise gains and mitigate the adverse effects of the policy environment on the economy of Lesotho. Lesotho also needs strategic sectoral policies and targeted investment strategies to promote fast and sustained growth in order to reduce poverty. This is particularly important in the context of long-term development, efficient resource allocation and the need to attract increased capital inflows, both public and private. Currently, Lesotho has no clear strategy for mobilising resources, especially domestic savings. This calls for the effective implementation of existing development strategies – the PRS, Vision 2020 and the growth strategy – in order to secure a framework for the efficient utilisation of revenue from water and diamonds as a basis for diversifying the economy. It would also help the country to attract and absorb increased donor support.
420. Lesotho lacks credible policies to address market failures that result in high uncertainty for investors. In this regard, both businesses and consumers pointed out that energy prices are inflexible despite huge fluctuations in global energy prices. For example, fuel prices rise with higher world oil prices but do not decrease when world oil prices do. This calls for government attention to address inefficiencies in the domestic energy market. However, Lesotho's development partners have noted that, even when policies and laws are adopted, implementation usually lags



behind. They have underscored the challenge of inadequate capacity as a serious constraint on policy making and implementation.

421. The budget-preparation process does not allow for timely and sufficient stakeholder participation. Ministries draft legislation and prepare budget bids without consulting with the public. Stakeholders at district level are only consulted after the budget speech and there is no mechanism to ensure that their views are considered. The budget has a limited policy framework and its analyses of challenges and opportunities need to be deepened. The policy dimension is important, because the budget should be viewed as a tool to deliver services and to build capacity for accelerated and sustained broad-based growth for poverty alleviation and social development. This calls for the growth strategy to be finalised and the MTEF to be rolled out.
422. As the CSAR indicates, there is heavy reliance on aid and special instruments like AGOA. This underpins important weaknesses in Lesotho's policy framework. AGOA stimulated strong growth in manufacturing output and exports. They were difficult to maintain once the Act was repealed and because of the stiff competition in the textile market from China and other emerging economies. Although AGOA has now been reinstated until 2015, there is a need for the government to define clear strategies for mitigating the impact of its repeal after 2015.
423. As the CSAR notes, sound public finance management should establish clear links between planning and budgeting processes and national goals and priorities. It should also improve revenue collection, deepen expenditure control, and facilitate the inclusion of all stakeholders in the planning and budgeting process. Lesotho is yet to establish strong links between the expenditure and revenue sides of the public budget.
424. In the MTEF framework, ministries are expected to move away from 'incremental budgeting' and to make their requests for budget funding on the basis of planned ministerial outputs that will be linked to achieving the goals adopted in the overall development strategy. The process depends on ministries developing their sectoral development plans to implement government policy. Some ministries – such as Education and Training, Communications, Science and Technology, Agriculture and Food Security, and Health and Social Welfare – have completed full or partial sector plans. One continuing weakness is the lack of robust parliamentary scrutiny of the strategic plans, caused by the lack of specialist parliamentary committees. This means that the proposed parliamentary 'portfolio cluster' review committees, with specialist advisers, need to be formed.
425. Another issue that can adversely affect progress in implementing the MTEF is that preparation of the aggregate resource envelope and determining aggregate and organisational expenditure ceilings rely on the outdated CBL economic model and the unreliable statistical base of BOS, as well as poor quality and timeliness of public accounts from the Government of Lesotho Financial Information System (GOLFIS). Obviously, it is necessary to improve the capacity of BOS to collect and analyse data.
426. While many line ministries are represented at district level (there are 12, for example, in Leribe), coordination between them is weak and ad hoc, not strategic or forward-looking. There are no clear long-term strategies, especially at district level. This explains partly the low project implementation and budget utilisation rate and calls for accelerated and adequate decentralisation of revenue assignments and expenditure responsibilities.



427. Some stakeholders argue that progress in fiscal decentralisation has been slow because of rivalries among ministries that attempt to retain control over resource allocations and use. Meanwhile, the political institutions that brought ministers to power do not appreciate the need for change. This makes the system less credible.
428. The politicisation of key public sector positions, such as principal secretaries, adversely affects the efficiency and effectiveness of public service delivery as well as government transparency.

iii. Recommendations

429. For Lesotho to adopt sound, transparent and predictable economic policies, the APR Panel recommends:
 - The finalisation and implementation of the Lesotho draft medium-term growth strategy. This should provide a basis for economic and social policy making as well as effective budget planning. The strategy would also provide a framework for the efficient mobilisation and use of resources for accelerated and sustained growth. This process will be improved if the government were to develop a long-term, comprehensive national development plan. (*All economic ministries*)
 - The completion of the decentralisation process, which is essential for Lesotho to improve service delivery, transparency and accountability. This requires political decentralisation and meaningful fiscal decentralisation. (*Parliament, MoLG*)
 - The adoption and implementation, by government, of a more rigorous public awareness strategy so as to improve public participation in policy making in general and the decentralisation process in particular. Citizens need to have a clear idea of their constitutional and legal rights and responsibilities in this regard. (*Ministry of Communications, Science and Technology, MoFDP*)

Objective 3: Promote sound public financial management

i. Summary of the CSAR

Policy framework

430. The PSIRP, which commenced in 2001, underpinned various measures to improve the quality and efficiency of public service delivery. In this context, efforts have been made to improve efficiency as well as accountability and transparency in public sector management by integrating medium-term planning and annual budgeting procedures into the MTEF. By 2006, the MTEF had been piloted in six ministries that developed detailed budget framework papers as inputs into the setting of budget ceilings.
431. The PSIRP links all elements of the public finance management system and provides the basis for coordinating donor support. It has three broad elements: planning and budgeting; accounting and reporting; and auditing and oversight. The PSIRP also provides for capacity building in economic



planning and public finance management reforms, including measures to strengthen the LRA, the Office of the Auditor General (OAG) and the Public Accounts Committee (PAC) of Parliament.

432. The process of decentralisation in Lesotho is still at an embryonic stage. Local authorities are set up mainly to facilitate effective service delivery. However, they still do not have powers to collect revenue. In fact, the Local Government Act and regulations clearly give them the authority to collect revenue from local sources through, for example, taxation, user fees and charges. However, the MoFDP is currently the only institution that has the legal authority to collect revenue. There is, therefore, a need for legal amendments and harmonisation of the revenue laws and regulations so that the local authorities can exercise their assigned functions to collect revenue.
433. They rely almost exclusively on conditional grants from the MoLG, which, in turn, receives unconditional grants from the MoFDP. The PSIRP has focused on building administrative capacity so that the local authorities can deliver services effectively and efficiently in the context of the poverty reduction and economic growth strategy. Local government elections were held in 2005. They started the process of political decentralisation, ahead of fiscal decentralisation. It was envisaged that, during the five-year period up to 2010, certain processes, including the decentralisation of decision making and allocation of resources to the local authorities, would be completed.

Institutional development

434. Public financial management is governed by numerous Acts. They include the constitution of Lesotho (1993), the Lesotho Financial Regulations (1973), the Finance Order (1988), the Audit Act (1973) and the PAC Order (1972). Some of these are presently under review to incorporate changes necessitated by public sector reforms. Local governance in Lesotho is guided by three major laws: the constitution, the Local Government Act of 1997, as amended in 2004, and the Local Government Elections Act of 1998, as amended in 2004. The constitution of Lesotho obliges Parliament to establish local authorities as “it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an act of Parliament.” The Local Government Act outlines: the institutional framework for the local government system; the powers and functions of councils and their organs; and their resource base, procedures, rules and regulations. The Local Government Elections Act of 1998, on the other hand, outlines the procedures, rules and regulations for the conduct of local government elections.

Fiscal decentralisation

435. The establishment of the Local Government Service Commission (LGSC) in 2005 facilitated the transfer of about 6,549 public servants to work at the district and subdistrict levels under either the district administrator or the district council secretary. Meanwhile, progress has been made by the Fiscal Decentralisation Task Team (FDTT), which comprises staff from the MoFDP and the MoLG, in developing a fiscal decentralisation framework. Although fiscal decentralisation remains limited, budget allocations were approved and local authorities began to use their own accounts for delivering services at the local level after 2006/2007. A district development fund was initially proposed as a mechanism for financing local government capacity, but the status of the fund remains uncertain.



436. The devolution of fiscal resources has lagged behind the devolution of functions and staff. The only development fund received by the community councils by 2007 was an initial interim capital grant of M15 million that was subsequently increased to M21 million. The grants are allocated to community councils based on population (75 per cent) and on geography (25 per cent). Although the allocation is formula-based, the funds are not fungible and each community council is still required to apply to make expenditures based on approved implementation plans. The FDTT is currently developing a new formula for transfer grants from central government to local authorities. Currently, the Local Government Finance Board (LGFB) – made up of a chairperson selected by the MoFDP, two members selected by the MoLG and three members elected by the chairpersons of district councils – monitors and controls the implementation of unconditional and conditional district development funds.
437. The Local Government Act of 1997 provides a general framework for financing local government through fines and penalties; revenue from sales; leases or other transactions; donations; gifts and grants; and rates, taxes, fees and other charges levied by local authorities. However, local authorities have not yet been able to raise funds through any of these channels. The only exceptions are that some community councils have been able to raise small amounts of money through fines on animals that have trespassed on reserved grazing lands. Most community councils have neither kept these monies in the bank nor accounted for them.
438. Local government finances have therefore relied almost entirely on central government grants. Donor and NGO funding is usually tied to particular programmes or development activities, depending on the area of interest of the donor organisation, and very little revenue is generated from local sources. All the funds transferred to local authorities are conditional in the sense that they are tied to specific development or current expenditure functions.

ii. Findings of the CRM

439. With regard to public revenue mobilisation and allocation, stakeholders have underscored the risks of Lesotho's heavy dependence on SACU revenue (50.1 per cent of total revenue in 2008) and that disbursement is hard to predict, making budget preparation and management rather difficult. However, although some stakeholders argue that the SACU revenue-sharing formula is likely to result in lower benefits for Lesotho, this may only occur when SACU countries sign economic partnership agreements that result in significantly lower tariff rates (see box 4.2).
440. While tax rates are in line with those of South Africa, it is difficult for Lesotho to expand the tax base because of its small industrial/manufacturing sector. Nonetheless, the government of Lesotho can do more to increase tax revenue through direct and indirect means. Improving tax administration and implementing measures to promote domestic investment and growth are two examples of how government can increase public revenue in the future. The government can also mobilise increased resources for financing development through PPPs.
441. Budget allocations to the economic sectors are relatively low (17 per cent in 2008) and declining. Stakeholders attribute this to a lack of long-term growth perspectives and reduced allocations to agriculture because of perceived low returns. Further, declining budgetary allocations to economic



sectors show that most domestic investment is in the private sector, while key infrastructure investment is mainly donor-funded.

Box 4.2: The new SACU revenue-sharing formula and its implications for Lesotho

The governments of South Africa and Botswana, Lesotho, Namibia and Swaziland (the BLNS countries) signed a new SACU agreement in October 2002. The new agreement seeks to entrench a democratic approach to trade policy, while facilitating an equitable sharing of revenue from customs and excise and reducing revenue instability during a period of declining tariffs.

The new SACU revenue-sharing formula (2002), which came into effect in July 2004, deals with customs and excise revenues separately and explicitly. It does so through three distinct components: a customs component; an excise component; and a development component, which aims to provide a redistribution mechanism for lower-income member countries.

First, total customs revenue collected will be distributed according to each country's share of intra-SACU imports (i.e., countries that import the most from within the Union will receive the largest share of the customs pool). Secondly, 85 per cent of total excise duties collected in all member countries will be distributed on the basis of each country's share of total SACU GDP, a proxy for the value of excisable goods consumed. Thirdly, the new formula will distribute the remaining 15 per cent of total excise duties almost equally to each member country, but with a marginal adjustment in favour of the countries with a lower per capita GDP.

Under the new revenue-sharing formula, the actual proportion received by each member country will therefore be based on the national GDP and per capita GDP of all five member countries, the overall size of the revenue pool (which, in turn, depends on tariff levels, duties and overall intra-SACU imports), as well as approved duty rebates. Under the old formula (1969 revenue-sharing formula, with the stabilisation factor), revenue was shared according to each country's share of SACU imports and excisable production (including excise duties), with guaranteed minimum receipts equal to 17 per cent of imports going to the BLNS countries as a group. To reduce the risk of preliminary and inaccurate numbers, the data used for distribution will be postponed by two to three years (i.e., the proportion to be allocated in 2005/2006 will probably be based on macroeconomic data for 2002/2003 or 2003/2004).

It is highly likely that the BLNS countries will lose financially under the new revenue-sharing formula, with the completion of new tariff-reducing trading agreements, as they are expected to shrink the size of the customs pool to which each country's revenue allocation will be linked. To support financially weaker countries, the 2002 revenue-sharing formula could be amended in the event of new tariff-reducing trade agreements.

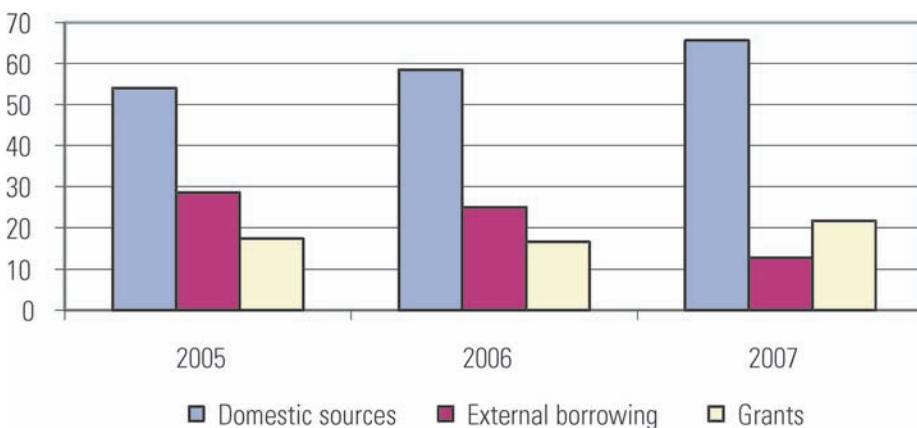
Source: Public Expenditure Management and Financial Accountability Review (PEMFAR) in the Lesotho World Bank Assessment Report (2006).

442. The observed overdependence on aid reduces budget predictability and the incentives for mobilising domestic resources. This, in turn, weakens budget control and performance assessment and constrains long-term development planning.



443. The CSAR notes that a decision has been taken to replace GOLFIS with a new Integrated Financial Management Information System (IFMIS) for the Treasury. IFMIS is designed to provide timely information to managers more cost-effectively. IFMIS is critical to the stated aim of decentralising some financial functions to local authorities, as it can facilitate effective monitoring and oversight functions by the MoFDP. A major challenge here is the timely and proper implementation of the reforms relating to the information management system used by the Treasury and in government as a whole.
444. The challenges for implementing MTEF, which adopts departmental strategic plans as control mechanisms and tools for budgeting and expenditure monitoring, include:
- Maintaining aggregate fiscal discipline (i.e., keeping total public spending within the bounds established by the government of Lesotho's ability to raise revenue and service debt without creating macroeconomic imbalances).
 - Allocating public resources between sectors/ministries and between programmes within sector/ministries to achieve national growth and poverty reduction goals.
 - Cost-effective delivery of services.
 - Effective coordination between the National Planning Board, the planning units of line ministries and District Development Coordinating Committees (DDCCs).
445. Recurrent expenditure accounted for a high proportion of government budget total expenditure in 2008 (80.3 per cent). More important, about 50 per cent of capital expenditure is financed from external sources – loans and grants (see figure 4.4). This clearly indicates the weak role of the budget in enhancing growth and future development. It is also an indication of the inability of Lesotho to align its budget and to commit itself fully to a clear long-term growth strategy.

Figure 4.4: Sources of finance for capital expenditure, 2007 (per cent of total)



Source: IMF (2008). Kingdom of Lesotho: Selected Issues and Statistical Appendix.



446. A major challenge to public sector management, in the context of improved service delivery and long-term development, arises from the consistently low budget implementation rate. Thus, despite the need for increased government spending in various areas, Lesotho's budget surplus increased from 5.8 per cent of GDP in 2004 to 12.6 per cent in 2008. In addition to capacity limitations, the low budget implementation rate is another indication of inadequate planning. Indeed, the government attributes the low budget implementation rate (especially in capital expenditure) to the budget-preparation process and procurement. Ministries and other agencies are not allowed to begin implementing projects before getting the approval of the budget by Parliament (usually in March) and disbursement, which occurs months later. By the time procurement starts, three to four months have elapsed. This leads to significant delays in implementing projects. Unused budget allocations are returned to the MoFDP and uncompleted projects have to await new budget allocations. This procedure results in cumulative delays in implementing capital projects.
447. However, the CRM established that delays, especially in implementing road projects, could be attributed to poor monitoring and supervision of contractors and weak enforcement of terms of contracts (see box 4.3). Despite delays in implementing road projects, contractors may not pay fines as stipulated in project agreements.

Box 4.3: Low project implementation rate a major concern

Lesotho's public budget is characterised by relatively low implementation rates, as is reflected in increasing fiscal surpluses between 2003 and 2008. The overall budget surplus amounted to 12.6 per cent in 2008. The implementation rate was particularly low, while capital expenditure was particularly high. The fiscal surplus does not originate from high actual revenue, but mainly because of delays in implementing projects, including those for roads, hospitals and other essential infrastructure and services. Unspent capital, as a percentage of allocated capital budgets, increased from 33.9 per cent in 2006 to 40.4 per cent in 2008. The MoFDP projects that it will remain above 30 per cent between 2009 and 2012. On average, about 50 per cent of capital expenditure in Lesotho is financed from grants (over 35 per cent) and loans (about 15 per cent).

Low budget implementation rates imply high direct and indirect costs. Government pays interest on loans that are not fully used to finance projects and project delays encourage potential donors to reduce aid. At the same time, delays in implementing infrastructure and basic service projects result in inadequate service delivery and discourage investment and job creation in the private sector. As actual growth rates fall far below potential growth, government loses potential increases in tax revenue. Because of high inflation rates, delays in project implementation also imply escalating project costs. Therefore, the low capital expenditure implementation rate has a high negative multiplier effect. Although government uses budget surpluses to finance external and domestic debt and to build balances to finance subsequent budget allocations, the cost of delayed project implementation remains high.

Government attributes the low budget, and especially the low project implementation rate, to the budget process and project cycle. Project preparation, design and procurement only start after the budget is approved by Parliament and funding is actually received by the implementing unit.



This can result in a three to four months' delay from the acceptance of the budget. Other factors causing delays in project implementation include the ineffective monitoring of project implementation and enforcement of contract terms, including project quality and time schedules. Government has to address the issue of budget and project implementation within the context of the MTEF, which facilitates the medium-term planning of capital activities, instead of annual plans. Donor and other assistance related to capital expenditure should be aligned to the MTEF. It is also necessary to improve project cycle management to ensure that projects are implemented in a timely manner and contracts are enforced so that the contractors who fall behind agreed timelines are penalised. More important, project preparation should not be tied to the annual budget process.

Source: CRM findings based on data provided by the MoFDP.

448. The CRM established that public finance management and accountability often fail to adhere to institutional requirements. Ministries, for example, are legally required to present their complete accounts regularly for auditing by the auditor general, and all audited reports should be tabled before Parliament for approval and be made available for public inspection. However, the CRM established that ministries are often unable to submit timely accounts for auditing. Many stakeholders expressed concern about the lack of political will on the part of Parliament and the government to force ministries to meet their legal obligations.
449. Currently, fiscal decentralisation is limited and the country needs to decentralise revenue collection and service delivery in order to improve efficiency, transparency and accountability. However, while the Local Government Act and its regulations empower them to mobilise revenue from local sources, other laws restrict these powers to the MoFDP. Lesotho has, therefore, to harmonise these regulations to make meaningful progress, especially in the area of fiscal decentralisation. Sources for increased revenue for local authorities include taxation and user fees on houses; bus stops; water; animals; toll gates; stalls; and shared company and income tax. However, decentralisation should be completed so that locally collected revenue is used locally. All relevant departments, like health and education, should be decentralised.
450. Effective decentralisation requires clear terms of reference for chiefs and elected councillors. They also need to be educated about their areas of responsibility and authority in order to avoid conflict. Furthermore, stakeholders at district level expressed concern about the election of uneducated councillors who are not able to deliver. Government should therefore set rules about minimum educational qualifications for candidates who want to serve as councillors.
451. The district administrator coordinates work at district level and is not part of local government. He or she liaises with the principal secretaries of agriculture, education, home affairs, sport and finance, among others, that are represented at district level. However, the district administrator has no consolidated plan and line ministries are not willing to decentralise. Therefore, implementation is actually centralised. While district administrators participate in preparing recurrent expenditure bids by line ministries, they have no role in preparing capital expenditure plans.
452. While local authorities submit regular financial reports to line ministries on relevant expenditure items, neither the MoFDP nor the MoLG maintains consolidated budget reports for individual



local authorities. Indeed, because of lack of capacity, the MoLG has been unable to undertake performance assessments of the activities of the local authorities which it funds.

iii. Recommendations

453. The APR Panel recommends that:

- Instead of a top-down budget planning process, Lesotho should move to a bottom-up approach as envisaged in the MTEF. In addition to facilitating meaningful public participation in the budget process, by integrating budget planning and control, this will improve transparency in service delivery and accountability to stakeholders at various levels. (*MoFDP, MoLG, district administrators*)
- High dependence on SACU revenue and donor support is a factor that can adversely influence the planning and implementation of development programmes and the government budget. This calls for efforts to improve domestic resource mobilisation through measures like improving tax administration; issuing and selling treasury bills; and PPPs. At the same time, Lesotho should engage in dialogue with donors to improve the quality of aid and predictability, as the way aid is delivered and managed can significantly influence its impact on development. Government and donors should arrive at a limited set of mutually agreed aid conditions based on national development strategies and donors should improve the predictability of aid by providing the government with regular, timely, indicative information on planned support. (*MoFDP, MoLG*)
- Budget implementation has frequently fallen below targets, especially in the area of capital expenditure and the use of donor funds. Lesotho needs to implement the recently adopted public sector management reforms, including the MTEF, and build human capacity to ensure that resources are adequately used and that projects are implemented timeously. (*MoFDP, MoLG*)
- Lesotho should improve fiscal decentralisation by devolving increased revenue mobilisation powers and expenditure assignments to local authorities, which should have coordinated revenue and expenditure plans. This calls for the harmonisation of regulations governing tax assignments. Currently, while the Local Government Act and regulations clearly empower local authorities to collect taxes, other regulations confine these powers to the MoFDP. Contrary to the argument, by some central government officials, that fiscal decentralisation is not feasible in view of the size of the country, decentralisation of revenue and expenditure responsibilities should improve service delivery as well as transparency and accountability at the local level. (*Parliament, MoFDP, MoLG*)
- In addition to enforcing rules and procedures on accounts and regular assessments of budget performance and reporting, Lesotho should enhance the role of oversight bodies like the OAG and the PAC in public finance management. This needs to be an integral part of the PSIRP, which should be rigorously implemented. (*Parliament, all ministries, local authorities*)



Objective 4: Fight corruption and money laundering

i. Summary of the CSAR

Fight corruption

454. The CSAR assesses the level of corruption and the measures taken to combat it in both the public and private sectors. The report also highlights the extent to which money laundering is prevalent in the country and the effectiveness of measures taken by Lesotho to fight it. A national public attitude survey on democracy, markets and civil society, conducted in 2003, indicates that corruption was perceived to be highest among border officials, with 30 per cent of respondents saying “most” or “all” are involved in it. They are followed by the police (28 per cent), government officials (27 per cent), and the Office of the Prime Minister (11 per cent). Public perception of corruption is similar for the private sector (both local and foreign business), magistrates and judges, which is not much higher than that for religious leaders. Surveys of political attitudes and values in Lesotho, conducted in 2000, 2003 and 2005, indicate that local authorities are perceived to be less corrupt than the central government. Respondents believe that teachers and principals are least corrupt, followed by health workers and local officials.
455. In 1999, Parliament enacted the Prevention of Corruption and Economic Offences (PCEO) Act that established the Directorate on Corruption and Economic Offences (DCEO) in 2003. The functions of the directorate include investigating suspected practices of corruption in public bodies and public education and to prevent corruption. The Act empowers the minister of public service to require any public official to dispose of direct and indirect financial interests in any undertaking as well as of interests which are incompatible with the discharge of the public duties of such an official.
456. Other oversight institutions are the PAC and OAG. The former is a 15-member parliamentary oversight committee. Its function includes examining public funds and it can call upon officials up to the level of principal secretaries to appear before it. It also has the power to investigate and call on any minister to review specific ministerial decisions. It reviews reports presented by the OAG. However, the PAC and OAG appear to lack the power and capacity to fight and root out corruption. They have limited capacity to investigate and review cases. The DCEO is seriously understaffed in very critical sectors. It cannot recruit its staff directly and depends on what has been labelled a very inefficient Public Service Commission (PSC).
457. The OAG, on the other hand, is not fully independent. The office is currently funded through a budget determined by the minister of finance and development planning and its staff are public servants subject to, and under the regulations of, the public service. More importantly, the auditor general operates under, and is housed by, the MoFDP. What most seriously compromises her current powers and efficiency is that she also reports to Parliament through the minister of finance and development planning. In recognition of this weakness, plans are under way to reform the office through an Act of Parliament. This reform would make the auditor general more powerful, as is stipulated in the constitution, and independent by actually separating the office from the public service. Finally, while the PAC has investigative powers and can call upon ministers, especially



during the review of the auditor general's report, and can present recommendations to Parliament, these recommendations have often remained in files. Examples of successful prosecutions of corrupt practices include the Lesotho Highlands Development Authority (LHDA) cases involving senior staff.

Money laundering

458. Lesotho drafted its first Money Laundering and Proceeds of Crime Bill in 2000, which was passed by Parliament in 2008. Prior to that, commercial banks in Lesotho did not have any legal obligation to report or disclose information on suspected activities involving money laundering. Cases related to money laundering were prosecuted under common law and various statutes such as the Criminal Procedure and Evidence Act of 1981, the PCEO Act of 1999 (as amended), the Customs and Excise Act of 1982, and the FIA of 1999. Lesotho is party to the Eastern and Southern African Anti Money Laundering Group (ESAAMLG), established in 1999. The ESAAMLG countries agreed to prepare the necessary legislative framework to incorporate anti-money laundering measures guided by the UN Convention against Transnational Organized Crime and its Protocols (the Palermo Convention).
459. Lesotho has also signed and ratified many international conventions on combating money laundering, terrorism and corruption. These conventions comprise the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention, 1988); the International Convention for the Suppression of the Financing of Terrorism (1999); the UN Convention against Transnational Organized Crime (2000); and the UN Convention against Corruption (2003). However, all these conventions are yet to be domesticated and implemented as national legislation.
460. The government of Lesotho, through the CBL, has issued Anti-Money Laundering Guidelines (2000) under the FIA. These impose duties on financial institutions to, among other things, establish and maintain specific policies and procedures to guard against the use of the financial system for money laundering. It is worth noting that the guidelines do not extend to insurance and other financial-sector businesses.
461. The CBL issued draft Financial Institutions (Know Your Customer – KYC) Guidelines in 2006. These impose a duty on banks to implement policies more clearly around KYC, customer acceptance, risk categorisation and management, transaction monitoring, suspicious transaction reporting as well as customer education on money laundering. In addition to money laundering, the Money Laundering and Proceeds of Crime Act criminalises terrorist financing and covers terrorist property. The Act extends coverage to accountable institutions, which include all players in the financial sector, estate agents, lawyers and casinos. The Act establishes the DCEO as its implementing authority. The Act also establishes the Financial Intelligence Unit (FIU), whose job is to acquire information on money laundering and pass it to the DCEO for appropriate action. Commercial banks in Lesotho have also established an interbank forum where compliance officers/money laundering control officers meet to discuss issues of mutual concern. This forum informs the newly established Bankers Association, which takes the matters up with the CBL in the monthly governor's meetings. The individual banks are affiliated to South African banks. Their policies are therefore largely dictated by the respective parent bank policies based on South African legislative demands and the South African Reserve Bank's directive that the respective groups should ensure compliance across the group.



462. Experts believe that money laundering has not been a serious issue in Lesotho and that the public has been sufficiently sensitised by banks and responsible regulatory officials about the fight against money laundering. They nevertheless recommended that the dissemination of information should be a continuous process to enable every citizen to engage in the fight against money laundering.

ii. Findings of the CRM

463. While the country has enacted numerous Acts to combat corruption and money laundering, the biggest challenges lie in their slow implementation.

464. The CRM notes serious institutional challenges to fighting corruption. They include weak enforcement, shortages of staff and the limited resources of anticorruption bodies. Indeed, inadequate human capacity appears to be a factor that constrains efficiency across many public institutions in the country.

465. Senators argue that, to improve the accountability of government, Parliament should play a leading role in monitoring and interrogating the activities of watchdog institutions such as the ombudsman, the auditor general and the DCEO, to mention only a few. Currently, these institutions present their reports to Parliament, but they are constrained because they are accountable to line ministries at the same time.

466. The appointment of key officers such as the auditor general, the ombudsman and ambassadors can remain the prerogative of the executive, but Parliament should play a role in scrutinising the suitability of the proposed candidates.

467. With regard to the prosecution of corrupt practices, stakeholders argue that courts are not independent when the state is involved.

468. Stakeholders at district level do not seem to consider corruption to be a serious problem, but they are aware of corrupt practices. Water and Sewerage Authorities (WASAs), for example, collect payment without reading meters and tend to overcharge. There are also incidents of corruption in land allocation where chiefs and councillors allocate the same land to more than one user. They believe that corruption is more rampant at central government level than at district level. Political leaders at central level are failing to declare their assets or to lead the fight against corruption by example. This is another reason for government to expedite the decentralisation process. Local governments should be allowed to operate fully and be given resources and training. In principle, chiefs should remain the first police of the community. Youth resource centres should be given the resources to train the youth for the job market. Resources should also be decentralised and not controlled by central government.

iii. Recommendations

469. The APR Panel recommends that:

- Fighting corruption start with internal procedures and controls that deter corruption and facilitate the detection and prosecution of corrupt practices. All ministries and government



departments should adhere to agreed standards to maintain complete and timely records and present them for auditing by the OAG. This should be done in the context of ongoing public sector management reforms, namely the PSIRP and the MTEF. (*Parliament, Ministry of Justice and Human Rights and Correctional Services*)

- Though Lesotho has established oversight institutions to combat corruption, these institutions be strengthened to effectively play their role. In particular, the country should ensure the independence of key oversight institutions – the PAC, the DCEO and the OAG. They should be given the necessary human and financial resources as well as the freedom to recruit staff to carry out their responsibilities. (*Parliament, Ministry of Justice and Human Rights and Correctional Services*)
- The public should be involved in the fight against corruption and money laundering through educational programmes and continuous awareness campaigns. (*Ministry of Communications, Science and Technology*)

Objective 5: Accelerate regional integration by harmonising monetary, trade and investment policy

i. Summary of the CSAR

470. Lesotho is a member of several regional economic cooperation units – the AU, the SADC, SACU and the CMA. It also participates in NEPAD and the World Trade Organization (WTO).
471. The CSAR states that Lesotho is doing well in implementing the agreements it has signed. The report identifies the gains from regional integration arrangements. These include increased volume of trade, increased job opportunities and increased availability of consumer and capital goods, among others. However, membership of regional integration schemes carries its own challenges. Membership of the CMA, for example, poses the challenge of synchronising monetary and fiscal policies. As a member of that body, Lesotho cannot conduct an independent exchange rate policy. Its control over monetary policy is also limited. Notwithstanding these challenges, both the government and the people believe that the institutional arrangements confer significant advantages in facilitating trade, investment and cross-border activities like tourism.
472. It should also be noted that Lesotho has worked diligently towards harmonising regulatory policies (including policies in respect of intra-African trade and investment promotion) and ensuring that they are consistent with, and supportive of, regional economic integration objectives. The aim of the harmonisation project is to make it easier for the inflow and outflow of capital, investment, the promotion of free trade in goods and services, and the maintenance of international trade standards.
473. Lesotho's trade and trade-related policies are mainly the responsibility of the MTICM, but other ministries and agencies – like the MoFDP, the Ministry of Foreign Affairs and International Relations, the Ministry of Agriculture and Food Security (MoAFS) and the CBL – are all heavily involved in trade-related policy making. The institutional setup for promoting trade has been further improved by establishing several bodies like the LRA and LNDC. In order to facilitate regular consultation,



the government, through the MTICM, holds a number of forums where all government ministries (the Ministerial Task Force) are represented. It includes the National WTO Network Forum, which brings together all ministries and departments as well as the private sector and academics. The purpose of such an exercise is to broaden discussions, obtain diverse views on WTO-related matters and build a concrete position for the country.

474. However, it should be said that Lesotho does not have a documented trade policy. It does, however, have an implied and fragmented policy which is guided by various statutes on trade and trade policy. Lesotho's export policies are determined by external conditions, including market access to South Africa, the SADC, the USA and the EU. To comply with AGOA, Lesotho has introduced new licensing and visa mechanisms for textiles and clothing.
475. The trade and cooperation agreement between South Africa and the EU has also affected, and will continue to affect, Lesotho's import structure by effectively granting preferences in SACU to goods of EU origin. It will also reduce the tariff revenue available from the SACU revenue pool. Imports and exports are governed by the Export and Import Control Act of 1984, the Customs and Excise Act of 1982 and the Customs and Excise Regulation Act of 1984. These legal provisions are currently under review in order to update them in line with the 2002 SACU agreement.

ii. Findings of the CRM

476. Lesotho's participation in regional integration is dominated by its membership of SACU and the SADC. Together with Namibia, Swaziland and South Africa, Lesotho is a member of the CMA, which recognises the South African rand as legal tender. Although Lesotho introduced its own currency, the loti, in 1980, it continues to be pegged at par to the rand. While these institutional arrangements limit the scope for an independent monetary policy, they confer significant benefits on Lesotho. The arrangements facilitate trade, investment and cross-border activities (like tourism). Lesotho also derives more than 50 per cent of its revenue from the SACU pool. It also receives between R40 million and R60 million annually in compensation for the rand circulating in the country (as Rent Monetary Compensation).
477. Most observers think the arrangement is perhaps the most beneficial for Lesotho in the light of its geographical location inside South Africa and because of its size. While the arrangement offers opportunities, it also poses challenges. The challenges include pursuing appropriate policy to enable it to compete with South Africa for FDI and to be able to penetrate the markets of South Africa and other neighbouring countries.
478. Available evidence suggests that Lesotho has been working diligently towards harmonising SACU regulatory policies, including policies in respect of intra-African trade and investment promotion, and ensuring that they are consistent with, and supportive of, the regional economic integration objectives as set out in the SACU agreement of 2002. The aim of harmonisation is to make it easier for the inflow and outflow of capital, investment, the promotion of free trade in goods and services, and the maintenance of international trade standards. In order to improve the investment climate and attract foreign investment, Lesotho has introduced the following measures or incentives:



- *Tax incentives.* Manufacturing companies outside the SACU region are expected to pay zero corporate tax on profits they earn from selling their products, 10 per cent preferential corporate tax on profits earned on exports within the SACU region, and normal corporate tax of 25 per cent. There is no tax deducted on dividends distributed to local or foreign shareholders by the manufacturing companies.
- *Financial and export incentives.* Investors are also given financial and export incentives. These comprise export finance facilities; long-term loans and/or equity; unimpeded access to foreign markets; free repatriation of profits; input credit for all capital equipment and raw material inputs; and zero-rated exports under the Lesotho VAT system. The manufacturing exporters also enjoy the benefits of running bank-administered foreign currency accounts at any of the banks in Lesotho.
- *Lesotho Duty Credit Certificate Scheme (DCCS).* Manufacturing companies are allowed to participate in the Lesotho DCCS. This is an initiative under the Textile and Clothing Industrial Development Programme whereby SACU-based exporters of textile products are given duty credits in respect of shipments to non-SACU markets. These can be used to offset the SACU Common External Tariff (CET) on imports of consumer goods. These duty credits are saleable and a large secondary market exists for them, particularly among distributors in South Africa. The requirement for participating in the scheme is that a company must manufacture within SACU and export its textile or clothing products outside the region. The scheme offers a rebate on import duty on the basis of the value of goods exported. However, the scheme has been found to contravene WTO rules governing export subsidies. Although Lesotho, as a least developed country, has so far been excluded from its prohibition, it is likely that SACU member states may bring the scheme to an end. This could cause a loss of revenue to Lesotho.
- *Establishment of the Commercial Court.* This court was established in 2000 to deal with commercial disputes and thereby promote an investor-friendly environment which allows investors to enjoy normal commercial freedom without interference from the government. The court also provides a legal framework by affording sufficient protection to lenders against delinquent borrowers. The establishment of the court is an important step towards promoting financial stability and encouraging the extension of credit to the private sector. The court has the shortcoming that its cases must first be registered with the High Court, thus causing delays.
- *The Specialised Commercial Court.* The observed shortcoming of the Commercial Court led the government to establish a specialised commercial court in 2008. The court is financed through the MCA. Its aim is to promote faster, fairer and less expensive resolution of commercial disputes, whether large or small.
- *The establishment of the OSS.* This was established in 2007 to improve the business climate and to ease the process of establishing businesses in the country by consolidating services that advance business. They include issuing trade licences, residence permits, import permits and export visas from one place. It is also meant to speed up the process of importing and exporting by firms and businesses in the country.



- *New system of VAT refunds.* The government, through the LRA, is in the process of establishing a new system that will streamline the process of refunding VAT claims in order to reduce the problems of cash flow.
 - *Introduction of capital account reforms.* As a result of the increased risks facing manufacturers in international markets, the CBL has introduced gradual capital account reforms which will allow businesses to open foreign currency and offshore accounts. These facilities will enable businesses to hedge against exchange risks.
479. Discussions with officials tend to give the impression that, although the SADC free trade area was launched in 2008 after a long process of negotiating the protocols, it is neither certain nor clear that the customs union could be launched in 2010, as agreed at the Conference of Ministers. On SACU, officials believe that there has been limited success in respect of harmonising policies in industry, agriculture and competition. Furthermore, it is felt that too much attention is paid to SACU revenue-sharing issues than to concrete issues of integration, like developing common policies concerning trade, developing relationships with the rest of the world or developing national institutions like tariff bodies. Indeed, such a body exists only in South Africa.

iii. Recommendations

480. The APR Panel recommends that:
- As a small, landlocked economy, Lesotho should continue to take regional economic integration issues seriously, as it appears that its economic salvation may lie in the benefits it can derive from membership of regional initiatives. (*Parliament, MoFDP, MTICM, Ministry of Foreign Affairs and International Relations, CBL*)
 - The government should implement the various measures it has introduced to attract foreign investors. The contributions of such investors would be useful additions to those of local investors. (*Parliament, MoFDP, MTICM, Ministry of Foreign Affairs and International Relations, CBL*)
 - Lesotho needs to develop strong, specialised research and analytical capacity to assess regularly the benefits and constraints of regional integration arrangements on its economy. These analyses should help the country to design measures to mitigate the adverse effects and maximise the benefits of regional integration. (*CBL, MoFDP*)



CHAPTER FIVE

5. Corporate governance

5.1 Overview

481. The African Peer Review Mechanism (APRM) notes that good economic and corporate governance, including transparency in financial management, are essential for promoting economic growth and reducing poverty. Good corporate governance is about the ethical principles, values and practices that facilitate securing an acceptable balance between economic and social goals on the one hand and between individual and communal objectives on the other. The aim is to align, as closely as possible, the often diverse interests of individuals, corporations and society within a framework of sound governance for the common good of the country as a whole. The emphasis is on accountability, transparency, responsible operations, efficiency and effectiveness.
482. The current global economic crisis can largely be ascribed to weaknesses in corporate governance at the level of individual financial institutions, mainly in the United States of America (USA) and in other major industrial countries. Excessive exposure to high-risk financial assets, such as subprime bonds, led to the accumulation of massive potential losses in these institutions. Failure to observe basic corporate governance principles and shortfalls in regulation and oversight have all been singled out for blame. Irresponsible operations, such as the transferring of risk exposures by banks to 'special-vehicle institutions', the selling off of 'collateralised bond obligations' to finance houses and other institutional investors, and the provision of 'credit default swaps' by insurance companies fuelled the financial and economic crisis. Excessive lending by banks, the explosive growth of hedge funds and the market for financial derivatives, together with a culture that offered big rewards to managers for short-term profits, all contributed to the eventual collapse. Similar weaknesses in corporate governance were subsequently exposed among manufacturers (like the automobile industry) and in other sectors of the economy.
483. The importance of effective corporate governance has become, more than ever before, a key issue of discussion among world leaders. Examples are the recent meetings of the International Monetary Fund (IMF), the meeting of the World Economic Forum in Davos in January 2009 and the G20 leaders' summit in April 2009.
484. It was initially thought that developing countries would be less affected by the emerging crisis. However, it soon became evident that all countries around the world were exposed to the adverse consequences of the weaknesses of corporate governance in the more developed countries. Low-income countries, such as Lesotho, were drawn into the global recession because of their integration in the world economy and the importance of international trade, foreign capital inflows



and external earnings of their workers for their domestic economic development.¹⁶ It was indeed a traumatic experience for the Country Review Mission (CRM) to find evidence of the economic crisis in the isolated and small village of Thaba-Tseka high up in the mountains of Lesotho. The local community complained about the recent addition to their unemployment woes by retrenched workers returning from Lesotho textile industries, mines and South Africa.

485. Against this background, the government of Lesotho has little option but to give urgent and serious attention to improving the quality of corporate governance in Lesotho. Major revisions are bound to be introduced to corporate governance in the industrial countries in the near future and it will be prudent for Lesotho to move with these developments. In the global economic environment, corporate governance has now been elevated to a higher level. It is no longer just a voluntary private sector practice. It has become a major national, regional and international policy objective.
486. In seeking to improve corporate governance, Lesotho and other countries in the Southern Africa region could all benefit from cooperative and joint programmes to: improve banking and other financial regulation and supervision; develop national and regional corporate governance codes; fight corruption and money laundering; develop an integrated clearing system for domestic and cross-border banking transactions; and remove remaining foreign exchange controls between member countries and the rest of the world.
487. Lesotho's participation in regional integration and international trade is also relevant in terms of promoting private sector growth. These factors have the potential to: create larger markets and opportunities for small businesses to serve specialised customers; broaden the sources of supply; and lower the cost of raw materials. These matters become more than urgent in the context of the current global economic crisis. They should be taken into account in ongoing discussions to revise the Common Monetary Area (CMA) and Southern African Customs Union (SACU) agreements.
488. The CRM assessed corporate governance in Lesotho using several relevant international standards and codes and objectives identified as priority areas for corporate governance reform by African heads of state and government.

Codes and standards

- Principles of Corporate Governance [Organisation for Economic Co-operation and Development (OECD) and Commonwealth].
- International Standards of Accounting and Reporting.
- International Standards on Auditing.
- Core Principles for Effective Banking Supervision.
- Core Principles for Securities and Insurance Supervision and Regulations.
- African Charter on Human and People's Rights.
- Labour codes of the International Labour Organization (ILO).

¹⁶ IMF (2009). Implications of the Global Financial Crisis for Low Income Countries, www.imf.org.



- Codes on industrial and environmental safety and hygiene of the World Health Organization (WHO).

Corporate governance objectives

- To provide an enabling environment and effective regulatory framework for economic activities.
 - To ensure that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability.
 - To promote the adoption of codes of good business ethics in achieving the objectives of corporations.
 - To ensure that corporations treat all stakeholders (shareholders, employees, communities, suppliers and consumers) fairly and justly.
 - To provide for the accountability of corporations, directors and officers.
489. On the whole, corporate governance is still a nascent concept in Lesotho. Although the country subscribes to the eight international and regional standards and codes for assessing corporate governance, progress with regard to implementation is slow. There is no national corporate governance code. A few institutions are promoting good corporate governance, especially the Central Bank of Lesotho (CBL) and the Lesotho Institute of Accountants (LIA). However, awareness is low on the whole.
490. The business environment in Lesotho is characterised by a relatively small private sector and a number of important parastatal organisations. Private sector activities are distributed across the transport, manufacturing, mining, banking and financial services sectors. There are also suppliers of goods and services.
491. The Country Self-Assessment Report (CSAR) provides a profile of, and statistics on, Lesotho's businesses:
- Microenterprises (65 per cent).
 - Small enterprises (20 per cent).
 - Medium enterprises (12 per cent).
 - Large enterprises (3 per cent).
492. Of these enterprises:
- 75 per cent were in services.
 - 24 per cent were in manufacturing.
 - 1 per cent was in primary industry.
493. In 2006, enterprise ownership was reported as:
- Basotho (69.4 per cent).



- Asian (16.5 per cent).
 - South African (5.9 per cent).
 - Other (8.2 per cent).
494. The main business laws include:
- The Trading Enterprises Order (1993).
 - The Trading Enterprises Regulation (1999).
 - The Financial Institutions Act (FIA) (1999).
 - The Money Lenders Order (1989).
 - The Companies Act (1967, as amended in 1984 and 1989).
 - The Partnership Proclamation (1957).
 - The Insolvency Proclamation (1957).
495. The tax regime is regulated by three pieces of legislation:
- The Customs and Excise Act (1982).
 - The Income Tax Act (1993).
 - The Value-Added Tax (VAT) Act of 2001.
496. The effectiveness of these statutes is hampered by the age of most of them. Given the dynamics of corporate governance issues, the legal and regulatory framework is out of step with contemporary developments in corporate governance and hampers private sector development. Commendably, most of them (especially the Companies Act, the Insurance Act and the Accountants Act) are currently being revised.
497. The size and landlocked nature of the country pose a challenge in terms of Lesotho's global competitive dynamics. More specific constraints to private sector development were noted. They include: the lack of a clear policy and mechanisms for public-private cooperation; a lean natural resource base to support the growth of the sector; poor infrastructure; bureaucracy and institutional inertia; corruption; problems in accessing finance; and lack of skills (particularly those that can help broaden the scope for global operations). A heavy concentration of small and medium enterprises (SMEs), which lack the necessary support frameworks, makes it difficult for the private sector to drive economic growth.
498. Labour standards in Lesotho are generally considered to have improved over the years and the consensus is that the provisions of the labour code are generally respected. However, it is still necessary to step up the enforcement of the provisions of the very robust labour law regime. Corporate social responsibility (CSR), as practised by corporations, is mainly ad hoc and driven by voluntary philanthropy. It therefore has a limited impact in addressing the social challenges facing the country.



499. Section 36 of the constitution of Lesotho mandates the country to protect the environment and the country subscribes to international environmental conventions. They include the United Nations (UN) Rio Declaration of 1992 (on Environment and Development) and the National Environmental Action Plan (NEAP) of 1989. Lesotho also enacted a national Environment Act in 2001 and has a National Environment Secretariat (NES). Nevertheless, the country continues to face a number of environmental challenges that include pollution, urban sprawl and uncontrolled mining.
500. With regard to the treatment of stakeholders by corporations, the CRM noted the inadequacies of the antiquated Companies Act to provide up-to-date and wide protection of shareholder rights. Competition, consumer protection, intellectual property and creditors' rights either have weak and antiquated legal frameworks or are not provided for by any statute.
501. Lesotho has made efforts to combat corruption in both the public and private sectors. The best known of these is the celebrated Lesotho Highlands case, which received global acclaim for a number of reasons: the support of the government for a costly legal endeavour; the determination and fortitude of the attorney general to proceed against a number of actors, which included Basotho nationals and international agencies; and because it established the legal aspects of corruption fully. In addition, Lesotho has introduced a number of measures and mechanisms to tackle corruption. They include the Prevention of Corruption and Economic Offences (PCEO) Act (1999), which is administered by the Directorate on Corruption and Economic Offences (DCEO). Lesotho also has relevant legislation against money laundering. Corruption is nevertheless widely viewed as prevalent, particularly in the public sector.
502. Accountability of corporations, directors and officers is difficult to achieve in practice because of inadequate legal and regulatory frameworks and enforcement agencies. According to the auditor general's report, many government ministries and state-owned enterprises (SOEs) are not up to date with their accounts. This leads to qualified audit reports being issued. Some parastatals were said to have gone for almost two years without boards of directors. Although there were marked improvements in the appointment of board directors, stakeholders reported that more still needs to be done to ensure that directors of SOEs are appointed timeously and on merit.
503. Findings by the CRM revealed institutional inertia across all five objectives, including the standards and codes. The Companies Act (1967, 1984 and 1989) has been undergoing amendments for more than five years without being finalised. The same applies to the Land Act of 1979. This inertia was also noted in the number of programmes initiated by the authorities that were not carried to fruition. The One-Stop Shop (OSS), introduced to facilitate the registration of new businesses, can still be regarded as work in progress. Although it is now possible to obtain a licence within five days (previously 30 days were needed), the system still has inherent, stringent regulations, some of which are subject to approval by different ministries. The issue of work permits was also reported to be taking too long. Not only is the OSS still work in progress; so too is the establishment of a national corporate governance regulating body and the proposed Institute of Directors. The team perceived an unfortunate inclination by authorities to start new initiatives without driving them to completion.



5.2 Standards and codes

i. Summary of the CSAR

504. The CSAR states that Lesotho has adopted the relevant assessment codes for the corporate governance thematic area, but provides no further information on the dates of accession or the status of implementation of the various codes.

ii. Findings of the CRM

Principles of corporate governance (OECD, Commonwealth, King Report)

505. Corporate governance is a relatively new concept in Lesotho. The country does not have a national corporate governance code as yet. Delays in promulgating, revising and amending legislation relevant to corporate governance, such as the Companies Act, renders the accountability of corporations, directors and officials difficult to develop, enforce and monitor. Bureaucracy and institutional inertia also militate against entrenching good corporate governance in the country.
506. The CBL and LIA have roles in promoting good corporate governance. Their roles are driven principally by their core mandate of regulating the financial sector and the accounting profession. However, their roles are limited. LIA was involved in a stalled attempt to set up an Institute of Directors that has not come to fruition more than five years later. In a meeting with the CBL, the CRM was informed that the CBL has drafted a code of corporate governance for the financial sector and is in the initial stage of circulating it for comments. The CRM was also informed of an initiative to develop a code of governance for SOEs by the Ministry of Finance and Development Planning (MoFDP). It was, however, unable to ascertain the status of this initiative.
507. Foreign companies that are subsidiaries of South African companies, like Nedbank and Lesotho Standard Bank, subscribe to, and are encouraged to apply, the corporate governance principles of the King II Report. The King Code also promotes the practice of CSR. Some of these companies are active in key areas such as: protecting the environment; combating the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS); and alleviating poverty.
508. The challenge for Lesotho is that the drive to lure investors is firmly anchored on establishing sound corporate governance. The extent of success of the investment strategy depends on the standard by which the Lesotho business environment is governed. It is in Lesotho's long-term interest to define clear-cut corporate governance standards and codes by which corporations should be governed.

International accounting and auditing standards

509. LIA is charged with regulating and overseeing the practice of accountancy and auditing in Lesotho. LIA was established by the Accountants Act of 1977 (as amended in 1984). It is a member of several international and regional institutions given the responsibility of developing and issuing international accounting standards. They include the International Accounting Standards Committee (ISAC), the International Federation of Accountants (IFAC) and the Eastern Central and Southern African Federation of Accountants (ECSAFA). LIA also collaborates closely with the South African



Institute of Chartered Accountants. As a member of these bodies, LIA is expected to promote the adoption and use of international standards and best practices in the country.

510. LIA previously issued national accounting guidelines for use in Lesotho. Allowance was made to use the International Accounting Standards (IAS) issued by IFAC if there were no such guidelines. However, alongside global developments, Lesotho adopted the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) in 2005. Evidence on the ground, however, is that the IAS are still being used if they apply. However, there are no material differences between the standards being used in Lesotho and international standards on the whole. LIA no longer issues national accounting guidelines. Instead, it relies on the IFRS. There are no simplified accounting guidelines for SMEs at the moment.
511. Auditing is done in accordance with the Generally Accepted Accounting Principles (GAAP). None of the large international auditing firms, like Ernst and Young, PricewaterhouseCoopers and KPMG, are present in Lesotho. The reason given is that the market is too small to sustain their operations. The firms do, however, operate in the country through their offices in South Africa. Entities, which indicate that they need auditing by international firms for operational reasons, are allowed to use them (provided that they do so in association with local firms).

Core Principles for Effective Banking Supervision

512. The FIA of 1999, which repealed the FIA of 1973, empowers the Supervision Department of the CBL to monitor the activities of the licensed institutions so as to safeguard the soundness of the financial system and to ensure compliance with laws and regulations. The Act provides the legal framework, *inter alia*, for the licensing, organisation, administration, financial accountability, supervision, prudential regulation, and insolvency and liquidation of banks and financial institutions. It therefore allows sufficient flexibility for establishing minimum capital, liquidity requirements and loan limits, and for issuing other prudential regulations aimed at achieving full compliance with the Basel Core Principles for Effective Banking Supervision.

Box 5.1: Some of the regulations issued by the CBL for financial supervision

The **Financial Institutions (Licensing Requirements) Regulations of 1999** were intended to establish clear and objective criteria for reviewing applications to engage in banking or credit business and to outline the procedure to be followed in the licensing process.

The **Financial Institutions (Risk-based Capital Requirements) Regulations of 1999** were intended to ensure that each bank maintains an adequate level of capital to protect its depositors and creditors and to promote public confidence, among other things.

The **Financial Institutions (Loan Portfolio Classification) Regulations of 1999** were intended to ensure that all loans and advances from financial institutions are regularly evaluated using objective classification criteria; that the accounting treatment of accrued, but uncollected, interest on nonperforming accounts of financial institutions complies with internationally accepted accounting principles; and that the allowance for loan losses or provisioning is maintained at an adequate level at all times.



The **Financial Institutions (Lending Limits) Regulations of 1999** were intended to prevent financial institutions from having unduly large exposure to single borrowers or groups of connected borrowers, or to any of its directors or officers, or to any other related persons under section 25 of the FIA of 1999 and to ensure that all insider loans and advances made by financial institutions are on terms not more favourable than those afforded to other borrowers.

The **Financial Institutions (Internal Control Systems) Regulations of 2000** were intended to require financial institutions to establish and maintain systems of strong internal controls which will serve as foundations for their safe and sound operations, and to provide a useful framework for evaluating the internal control systems of financial institutions.

The **Financial Institutions (Anti-Money Laundering Guidelines) Regulations of 2000** were made in terms of section 71 of the FIA. These regulations are meant to require financial institutions to establish and maintain specific policies and procedures to guard against using the financial system for money laundering; to enable financial institutions to recognise suspicious transactions; to provide an audit trail of transactions with customers who come under investigation; and to require financial institutions to submit reports and to disclose information on large cash transactions and suspicious transactions.

The **Financial Institutions (Liquidity Requirements) Regulations of 2000** were intended to ensure that banks maintain adequate liquidity and require frequent reporting and monitoring of liquidity positions for prudential reasons and to implement macroeconomic policies.

The **Financial Institutions (Ancillary Financial Service Providers) (Licensing Requirements) Regulations of 2003** were intended to establish clear and objective criteria for regulating and supervising persons or institutions licensed to provide ancillary financial services.

Source: CBL.

513. Lesotho nevertheless has a history of financial sector instability, shown by the collapse of a number of domestic banks and savings institutions. Most of these failed because of poor lending practices. The CBL however believes that this is a problem of the past. The Banking Act of 1973 did not give the CBL enough powers to protect depositors. However, the FIA (1999) gives the CBL operational independence to respond quickly and decisively to financial sector stability issues. The CRM also queried the recent proliferation of ponzi and pyramid schemes in Lesotho and the effect they could have on confidence and stability in the sector. The CBL noted that it has responded resolutely to all cases that have come to its attention (like those of MKM and Millennium Gold) by closing them and protecting innocent citizens. It must, however, be remembered that these schemes operate outside the legal domain and many cases come to the attention of the authorities too late. However, vigilance is being improved in this regard. The FIA is being reviewed to empower the CBL to respond better to these issues.
514. There is no official decision to move to Basel II, although a committee, comprising representatives from the CBL, auditing firms and banks, has been set up to advise on the matter.



Core Principles for Securities and Insurance Supervision and Regulations

515. Supervision of the securities and insurance sector is through the CBL. Lesotho has not formally adopted the Core Principles for Securities and Insurance Supervision and Regulations. The CRM was, however, informed that the Insurance Act is currently being revised to attune it more closely to these principles, for example with regard to liquidity requirements.

Labour codes of the ILO and the African Charter on Human and People's Rights

Table 5.1: Labour codes signed by Lesotho

Convention	Ratification date	Status
C5 Minimum Age (Industry) Convention (1919)	31:10:1966	Rescinded on 14:06:2001
C11 Right of Association (Agriculture) Convention (1921)	31:10:1966	Ratified
C14 Weekly Rest (Industry) Convention (1921)	31:10:1966	Ratified
C19 Equality of Treatment (Accident Compensation) Convention (1925)	31:10:1966	Ratified
C26 Minimum Wage-Fixing Machinery Convention (1928)	31:10:1966	Ratified
C29 Forced Labour Convention (1930)	31:10:1966	Ratified
C45 Underground Work (Women) Convention (1935)	31:10:1966	Ratified
C64 Contracts of Employment (Indigenous Workers) Convention (1939)	31:10:1966	Ratified
C65 Penal Sanctions (Indigenous Workers) Convention (1939)	31:10:1966	Ratified
C81 Labour Inspection Convention (1947)	14:06:2001	Ratified
C87 Freedom of Association and Protection of the Right to Organise Convention (1948)	31:10:1966	Ratified
C98 Right to Organise and Collective Bargaining Convention (1949)	31:10:1966	Ratified
C100 Equal Remuneration Convention (1951)	27:01:1998	Ratified
C105 Abolition of Forced Labour Convention (1957)	14:06:2001	Ratified
C111 Discrimination (Employment and Occupation) Convention (1958)	27:01:1998	Ratified
C135 Workers' Representatives Convention (1971)	27:01:1998	Ratified



Convention	Ratification date	Status
C138 Minimum Age Convention (1973)	14:06:2001	Ratified
C144 Tripartite Consultation (International Labour Standards) Convention (1976)	27:01:1998	Ratified
C150 Labour Administration Convention (1978)	14:06:2001	Ratified
C155 Occupational Safety and Health Convention (1981)	01:11:2001	Ratified
C158 Termination of Employment Convention (1982)	14:06:2001	Ratified
C167 Safety and Health in Construction Convention (1988)	27:01:1998	Ratified
C182 Worst Forms of Child Labour Convention (1999)	14:06:2001	Ratified
Ratified: 22		
Conditionally ratified: 0		
Declared applicable: 0		
Rescinded: 1		

Source: ILO Database of International Labour Standards (ILOLEX), 23. 4. 2009.

516. In addition to signing these codes and standards, Lesotho has enacted a number of domestic labour laws to promote the realisation of these fundamental rights. A more detailed discussion on the labour standards and practices prevailing in Lesotho appears under objective 2 of this chapter.

Codes on industrial and environmental safety and hygiene of the WHO

517. Lesotho is a signatory to various international standards pertaining to occupational health and safety. They include the Occupational Safety and Health Convention of 1981 (No. 155) and the Safety and Health in Construction Convention of 1988 (No. 167). Lesotho has developed laws relating to safety in welding and cutting, spray painting, noise, construction and using chemicals. Stakeholders, however, raised concerns about the safety and health conditions in the textile, wool and mohair industries. They often do not have adequate protective equipment and this leads to health issues for workers.

iii. Recommendations

518. The APR Panel recommends that:
- Lesotho take steps to finalise the establishment of a corporate governance governing body that LIA has already started working on. (*CBL, LIA, private sector*)



- Efforts be made to develop a national code of corporate governance. (*CBL, LIA, private sector*)
- Lesotho finalise and enact several pending pieces of legislation relevant to the promotion of good corporate governance – the Companies Act, the Accountants Act and the Insurance Act. (*Government of Lesotho, Parliament*)
- Lesotho develop simplified accounting standards for SMEs. In this regard, it is worthwhile to note that ECSAFA, of which LIA is a member, has been collaborating in the work of the IASB in preparing IFRS for SMEs. There is a draft of this currently being considered by members. (*LIA*)
- Lesotho enforce more stringently labour and Occupational Safety and Health Administration (OSHA) standards, particularly in the textile industries. (*Government of Lesotho, trade unions, private sector, civil society*)

5.3 Assessment of performance on APRM objectives

Objective 1: Provide an enabling environment and effective regulatory framework for economic activities

i. Summary of the CSAR

519. Lesotho's business environment comprises the private sector and parastatal organisations. These are subject to regulation by the state through legislation, policies and the judicial system. The laws that regulate the private sector include the FIA of 1999, the Companies Act No. 25 of 1967 (as amended), the Partnership Proclamation No. 78 of 1957 and the Insolvency Proclamation of 1957.
520. The private sector can be categorised into different industries. These are transport, manufacturing, mining, banking and financial services, as well as the supply of goods and other services. Businesses comprise sole traders, partnerships and limited liability companies. Most local enterprises are sole traders, which are in some instances organised into associations and cooperatives and limited liability companies.
521. Large enterprises operating in Lesotho are mostly of foreign origin and are registered as such under the laws of Lesotho. Because of the size of local businesses, most are not listed on a stock exchange. Those which list, do so with either the Johannesburg Securities Exchange or the London Stock Exchange.
522. Parastatals, as trading enterprises in which the government holds a majority interest, historically comprise amenity providers like the former Electricity Corporation, the Water and Sewerage Authority (WASA), the Telecommunications Corporation, the Lesotho National Development Corporation (LNDC), and others. Under the influence of the Structural Adjustment Programmes (SAPs) of the IMF and the World Bank, some public corporations have since been privatised. In some cases, the government of Lesotho holds a minority percentage of the total issued share capital.



523. The Lesotho business sector is faced with many challenges, both general and specific. The broad challenges can be attributed to a number of factors that include the country's size, its geographic position, its limited economic endowments and general global competitive dynamics. At a more specific level are the challenges of inadequate information, lack of access to supplies and finance, and a shortage of skills (particularly those that can help broaden the scope for global operations).
524. Supervision of business enterprises in Lesotho rests largely on various ministries. Issues of land management and land development, for example, fall within the domain of the Ministry of Local Government and Chieftainship (MoLG). Registration of businesses and reporting using different business forms are overseen by the Office of the Registrar of Companies answerable to the Ministry of Law and Constitutional Affairs. Licensing is the prerogative of the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM). Regulation of the financial sector is vested in the CBL under the FIA of 1999.

ii. Findings of the CRM

The business environment

525. Lesotho falls within the category of least developed countries in Southern Africa and is a member of the Southern African Development Community (SADC). Lesotho relies on customs duties from SACU for the greater part of government revenue. Eighty-six per cent of Lesotho's population lives in rural areas and engages in informal business activity. The main economic activities include agriculture, which contributes 14 per cent of gross domestic product (GDP), and the sale of water from the Lesotho Highlands Water Project (LHWP) to South Africa. A small manufacturing base has developed that depends largely on farm products to support the milling, canning, leather and jute industries. Significantly, the manufacturing of clothing, under the African Growth and Opportunity Act (AGOA), has had the fastest growth over recent years. A great majority of households gain their livelihoods from subsistence farming and migrant labour, with a large portion of the adult male workforce employed in South African mines (although the number of mine workers has declined steadily over the years).

Assessing the business environment

526. According to the World Bank's "Doing Business Survey 2009", Lesotho ranks 123 out of 181 economies in the overall 'ease of doing business' ranking (see table 5.2).

Table 5.2: Ease of doing business

Ease of...	Doing business 2009 ranking	Doing business 2008 ranking	Change in ranking
Doing business	123	119	-4
Starting a business	125	128	+3
Employing workers	63	60	-3

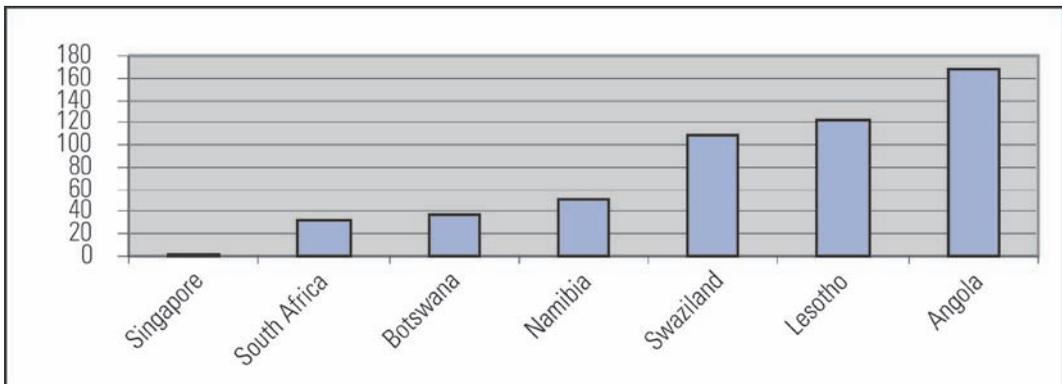


Ease of...	Doing business 2009 ranking	Doing business 2008 ranking	Change in ranking
Registering property	135	133	-2
Getting credit	84	79	-5
Protecting investors	142	141	-1
Paying taxes	54	52	-2
Trading across borders	141	132	-9
Enforcing contracts	104	106	+2
Closing a business	69	65	-4

Source: World Bank Doing Business Survey 2009.

527. **Note:** 'Doing business 2008' rankings have been recalculated to reflect changes to the methodology and the addition of three new countries.

Figure 5.1: Ease of doing business – global rankings



Source: World Bank Doing Business Survey 2009.

528. *Starting a business.* When entrepreneurs draw up business plans and try to get under way, the first hurdles they face are the procedures required to incorporate and register the new firms before they can operate legally. Countries differ greatly in how they regulate the entry of new businesses. In this regard, Lesotho is ranked 125 in the "Doing Business Survey 2009". In Lesotho, registering for business licences is a time-consuming and cumbersome process because of red tape, an inefficient administrative mechanism and cumbersome regulations. However, the new OSS created by the MTICM has shown some improvement in the registering process and, with a more aggressive implementation of its programme, should greatly improve future registrations.



Table 5.3: Starting a business

Starting a business	Doing business 2007	Doing business 2008	Doing business 2009
Rank	...	128	125
Procedure (number)	8	8	7
Duration (days)	73	73	40

Source: World Bank Doing Business Survey 2009.

529. *Registering property.* Formal property titles help promote the transfer of land, encourage investment and give entrepreneurs access to the formal credit market. However, a large proportion of property in developing economies is not formally registered. Informal titles cannot be used as security in obtaining loans. This limits financing opportunities for businesses. Lesotho is ranked 135 out of 181 economies in efficient ways of registering property in the “Doing Business Survey 2009”. In Lesotho, land belongs to the state.

Table 5.4: Registering property

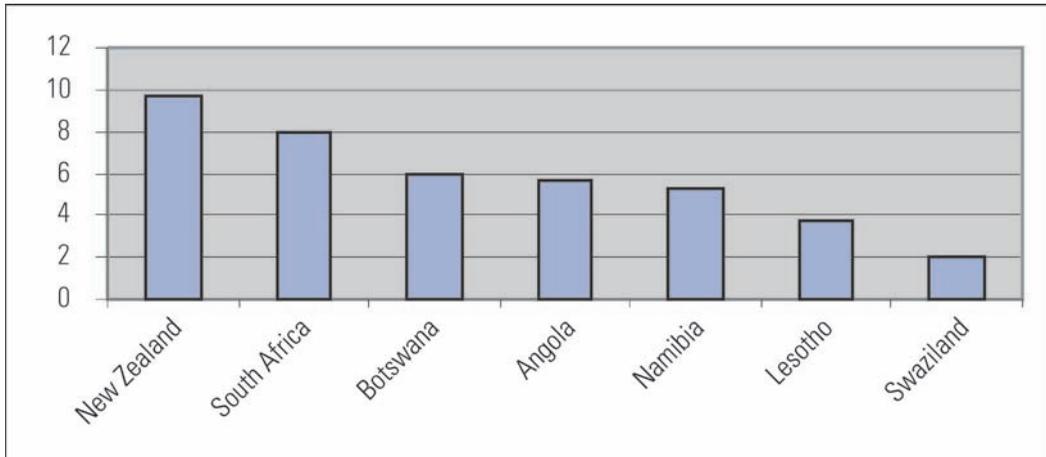
Registering property	Doing business 2007	Doing business 2008	Doing business 2009
Rank	...	133	135
Procedure (number)	6	6	6
Duration (days)	101	101	101

Source: World Bank Doing Business Survey 2009.

530. *Getting credit.* Firms consistently rate access to credit as among the greatest barriers to their operation and growth. The introduction of an official Credit Registry, which collects and distributes credit information on borrowers, can ease access to credit. Lesotho is ranked 84 as regards this aspect. The major obstacle to doing business in Lesotho is access to credit.

531. *Protecting investors.* Companies grow by raising capital, either through a bank loan or by attracting equity investors. Sales of shares allow companies to expand without it being necessary to provide collateral and repay bank loans. Investors, however, worry about their money and look for loans that protect them. A World Bank study found that the presence of legal and regulatory protections for investors explains up to 73 per cent of a decision to invest. Good protection for minority shareholders is associated with larger and more active stock markets. Thus, governments and businesses have an interest in reforms that increase investor protection. With regard to protecting investors, “Doing Business Survey 2009” ranks Lesotho 142 out of 181 economies worldwide. Figure 5.2 illustrates the protecting investors index in Lesotho compared with selected economies.



Figure 5.2: Protecting investors

Source: World Bank Doing Business Survey 2009.

532. **Note:** The higher the score, the greater the investor protection.
533. *Enforcing contracts.* Where contracts are efficiently enforced, businesses are more likely to engage with new borrowers or customers. “Doing Business Survey 2009” tracks the efficiency of the judicial system in Lesotho in resolving a commercial dispute. It follows a step-by-step evaluation of commercial sale disputes before local courts. The data are collected through studies of the codes of civil procedure and other court regulations, as well as through surveys completed by local litigation lawyers. Table 5.5 shows Lesotho’s position, in enforcing contracts, among the 181 economies surveyed.

Table 5.5: Enforcing contracts

Enforcing contracts	Doing business 2007	Doing business 2008	Doing business 2009
Rank	...	106	104
Procedure (number)	41	41	41
Duration (days)	695	695	695

Source: World Bank Doing Business Survey 2009.

The most problematic factors in doing business

534. According to the findings of the “Global Competitiveness Report, 2008–2009”, the most problematic factors in doing business in Lesotho are access to finance, inefficient government bureaucracy, inadequate supply of infrastructure, and corruption.



Table 5.6: The most problematic factors in doing business (per cent of responses)

Access to finance	21.4
Inefficient government bureaucracy	14.4
Inadequate supply of infrastructure	13.6
Corruption	9.0
Crime and theft	7.2
Tax rates	6.8
Poor work ethic in national labour force	6.8
Inadequately educated workforce	6.3
Tax regulations	4.4
Restrictive labour regulations	4.1
Policy instability	3.2
Inflation	1.3
Foreign currency regulations	0.9
Government instability/coups	0.6

Source: Global Competitiveness Report, 2008–2009.

Towards improving the business environment

535. The government of Lesotho, through the MTICM, recognised that an efficient regulatory and administrative environment within which businesses operate is an important driver of competitiveness. Not only can a sound business environment result in more businesses committing themselves to remaining in Lesotho, but it would also act as a powerful incentive for other businesses to increase their operations in the country.
536. To this end, the MTICM came up with the idea of establishing an OSS facility, phase by phase, as a key element in making Lesotho a more attractive investment destination and to improve 'doing business in Lesotho'. The idea was supported by the findings of the Inter-Ministerial Task Team in 2004, which looked into problems confronting the textile and garment industry at the time. The establishment of the OSS facility in 2006 was seen as a process that would take some time for full implementation. It is therefore being implemented in phases:
- *Phase 1* integrates those functions related to issuing import, export and rebate permits.
 - *Phase 2* adds functions related to business registration and licensing to those created in phase 1.
 - *Phase 3* integrates those functions related to issuing work and resident permits and travel visas and adding these to those created in phases 1 and 2.



- *Phase 4* integrates those functions related to setting up business electricity, water and telecommunication accounts and adds these to those created in phases 1, 2 and 3.

Key achievements

537. According to the MTICM, immediate improvements in service delivery were realised in mid-2006 when the Lesotho Revenue Authority (LRA) officials, who were administrating export visas, moved into the MTICM building to work alongside trade officials in an OSS facility. Significantly improving service delivery for businesses required a redesign of procedures and forms as well as the computerisation of systems. To this end, the OSS has undergone a significant process of reform. Fundamentally, this has involved combining the two distinct processes of trade and LRA into a single OSS process. Specifically, the following have been achieved:
- Export processes have been redesigned to eliminate unnecessary steps.
 - Import processes have been changed from blanket permits on all goods to permits for restricted goods only.
 - Licensing administration has been changed to simplify the fee structure (without an application fee), application forms and information management.
 - Local licensing board sittings have been streamlined so they can be held at least once a week.
 - Automation of trading and manufacturing licences has reduced licence processing times to 20 minutes for licences and 15 minutes for renewals.
 - Two immigration and two labour officers have been redeployed to the OSS since 2008.
 - Manufacturers' work permits are currently issued at the OSS, where it now takes one week compared with three months previously, thereby reducing the waiting time by 11 weeks.
 - Issuing of import permits has been automated. This has eliminated unnecessary bureaucratic steps and reduced processing time. Obtaining an import permit now takes only one day.
538. The first three phases have been completed, except for the issuing of residence permits. Preparations are under way to ensure that the facility will be operational in the near future. Preparations for the utilities have not yet begun.
539. The next targets include:
- Automating work permits by 2009.
 - Rolling out the OSS licensing system to the next three pilot districts of Lesotho [Leribe, Berea (at Teyateyaneng) and Mafeteng] by the end of 2009 after the feasibility study has been completed in November 2008.
 - Recruiting the OSS director before June 2009.
 - Integrating company registration services before June 2009.
 - Completing the OSS strategic plan by the end of 2009.



Legal and regulatory framework: recent developments

Companies Bill, 2009

540. The Companies Bill (2009) provides for the registration/incorporation, operation and liquidation of companies. Some of the important differences between the Bill and the 1967 Act are the following:
- With regard to incorporation requirements, the Bill removes the requirement for a 'Memorandum and Articles of Association' that previously required the services of legal practitioners. It introduces a simple incorporation document, otherwise referred to as 'Articles of Incorporation', which can be prepared easily. It also provides for incorporating companies with one shareholder. The Bill permits incorporation applications to be submitted electronically. Further, it clarifies the regulatory and supervisory powers of the Registrar of Companies.
 - The Bill addresses the relationship between company managers, shareholders and creditors. While company directors have wide management discretion, the Bill also provides a mechanism for shareholders to take part in decisions about the management style of the company and to question managers' decisions. It provides for the right of shareholders to access company records and documents. Further, the duties of directors, especially the duties of care and loyalty, are clearly stated.
 - The rights of shareholders, including minority rights, are clearly spelt out. In addition, the Bill contains flexible provisions about derivative and representatives actions as well as personal actions brought by shareholders against directors. Further, it contains provisions about the rights of creditors (i.e., in the event of mergers and liquidation).
 - The Bill allows directors to decide on discounts and commissions relating to the sale and purchase of company shares. A company is not prohibited from providing financial assistance for the purchase of its shares and may buy its own shares in certain circumstances. These are improvements as well, because the 1967 Act provided otherwise.
 - The Bill ensured that simple language, which can be understood by Basotho investors, was used.
 - The Bill removes the requirement for spousal consent and allows any person, including those married in community of property, to be promoters and directors of companies without obtaining consent from spouses.

Commercial dispute resolution

541. The government has, after a long delay and thanks to the facilitation of the CBL, established a commercial court in an effort to expedite adjudication. It is believed that the delay in adjudicating commercial cases will be avoided, thereby promoting sound financial intermediation. The CBL, the commercial banks, the MoFDP, the MTICM and the Privatisation Unit are among the many local stakeholders who have vested interests in the efficient operations of the Commercial Court. Detailed information on the Commercial Court was not readily available.



Public-private sector interface

542. Previous relations between the private and public sectors have not shown the necessary spirit of cooperation and shared agenda or vision. Clearly, this has not supported partnership and has undermined development efforts. Furthermore, information flow from the side of government is weak and the government of Lesotho has no concrete policy to encourage private-public sector dialogue. This is compounded by several challenges facing the private sector, such as lack of a strong voice, lack of capacity, lack of knowledge about corporate governance and lack of an organised structure.
543. The Lesotho Chamber of Commerce and Industry (LCCI) is faced with a couple of challenges that need to be resolved. They include a lack of capacity if it is to play a more proactive role in its interactions with government. Training programmes for leaders of the LCCI and other heads of private sector institutions and institutional capacity building are needed to strengthen the corporate governance structures of the chamber.
544. Textile investors, however, seem to enjoy government's patronage. An interministerial forum of the MTICM and investors in the textile industry has created an opportunity for dialogue between them. Recent initiatives by the government to create a 'business council' for dialogue with the private sector seem to be a controversial issue for members of the private sector, as they were not consulted in the drafting of the report that created the council. Another major obstacle to creating a more effective public-private sector partnership is the opening up of another chamber in 2005 (the Mohloli Chamber of Business – MCB) alongside the LCCI. This has made it difficult to speak with a united voice.

The Association of Lesotho Employers

545. The Association of Lesotho Employers (ALE) is a nonprofit organisation. ALE has a close working relationship with the MTICM and, to some extent, the MoFDP. The mandate of ALE includes:
- Processing and promoting the interests of its members (employers in relatively large companies) to assist them in regulating their relations with employees and trade unions.
 - Promoting and supporting government and public policies regarding harmonious industrial relations in the workplace and introducing fair conditions of employment of employers and employees in Lesotho and at the international level.
 - Promoting, protecting and defending the rights of employers in the peaceful settlement of trade disputes and opposing the introduction of legislation which would adversely affect the interests of members and the private sector as a whole.

The CBL

546. The main objective of the CBL is to achieve and maintain price stability. To achieve this goal, the bank performs a number of functions consistent with prevailing global practices. The most important function of the bank is to develop and execute monetary policy for Lesotho. Other functions include issuing currency, serving as a banker for the Lesotho government and the commercial banks, acting as a custodian of the country's foreign reserves and supervising financial institutions. It also acts



as an adviser to the government on financial issues specifically and on macroeconomic issues generally.

547. The main responsibility of the CBL is to develop and implement the country's monetary policy. The Monetary Policy Committee (MPC) was established during 2004 to replace the Monetary and Exchange Policy Technical Committee (MEPTC) that had been in existence since 1998. The MPC was established when it was realised that it was necessary to improve the accountability and transparency of the CBL in matters related to the development of monetary policy in Lesotho. The MPC consists of the governor, two nonexecutive members of the board of directors, one of whom must be an economist or a person of recognised standing and experience in economics, the principal secretary of the MoFDP and a representative of the business community.
548. The broad responsibilities of the MPC are to:
- Review international and domestic economic developments and their likely impact on the CBL's ability to achieve and maintain price stability.
 - Consider and develop appropriate monetary policy responses in order to achieve and maintain price stability in the Kingdom of Lesotho.
 - Review the CBL's monetary policy framework regularly and adopt changes when necessary.
 - Determine its own procedural rules and regulations to govern its operations and the conduct of its proceedings.

Supervision of financial institutions

549. One of the main responsibilities of the CBL is to ensure the financial strength and stability of the nation's banking system.
550. Through its Department of Supervision, and in accordance with the FIA of 1999, the CBL promotes the efficiency and effectiveness of the financial sector and ensures the integrity of the financial system through proper licensing and supervision of financial institutions. The bank conducts on-site examination and off-site surveillance to ensure compliance with the prudential requirements of the banking system and its proper functioning.
551. In recognition of the need to develop and to review regularly its programme for effective and efficient financial supervision, the bank established the Financial Institutions Supervision Technical Committee (FISTC). The committee plays an important advisory role in supervisory issues. It comprises the governor (as chairperson), deputy governors, directors and senior officials of the supervision and research departments. The committee meets once a week and is kept informed of all relevant supervisory activities.

The banking sector

552. The financial sector in Lesotho comprises four commercial banks (with about 25 branches), six insurance companies, 17 insurance brokers, several registered moneylenders and close to 2,000 cooperative societies. The government established the Lesotho Post Bank in 2005. The latter is focusing on mobilising savings in rural areas, where access to formal banking services was



reduced substantially by the collapse of state-owned banks at the end of the 1990s. The sector is governed by the following Acts of Parliament:

- The Central Bank Act of 2000.
- The Exchange Control Act of 1987 (as amended).
- The FIA of 1999.
- The Insurance Act of 1976 (as amended).
- The Money Lenders Act of 1989 (as amended).
- The Companies Act of 1967.
- The Cooperative Societies' Act of 2000.
- The Societies' Act of 1966 (as amended).

553. The FIA (currently being reviewed), is the primary law governing the financial sector. The FIA was introduced at a time of a banking crisis that culminated in the collapse of two big state-owned banks, the Lesotho Bank and the Lesotho Agricultural Development Bank (LADB). The crisis in the banking sector emphasised that the banking legal framework needed to be reformed. The promulgation of the FIA, therefore, heralded a new chapter in the banking system and supervisory developments in the country. The Act paved the way for enforcing prudential banking standards and principles that have since been issued as regulations and guidelines.

Traditional credit schemes

554. The provision of microcredit by microfinance or other institutions is necessary to enable small businesses and the informal sector to engage in productive activities. In Lesotho, credit cooperatives have been the oldest form of microfinance lending. Recently, the sector has been growing and informal financial institutions, in the form of rotating savings and credit associations as well as other societies, have gained popularity. These institutions mobilise savings from members and extend credit to those who need funds. According to the findings of the CBL, funds accumulated by most of the savings and credit associations in Lesotho are used to finance consumption, rather than for investment purposes. Furthermore, the Lesotho Poverty Reduction Strategy (PRS) identifies a lack of access to credit by the poor as one of the major hindrances to the success of small, medium and microenterprises (SMMEs), which are mainly run by Basotho. This implies that promoting and improving group or village savings and credit schemes, as well as the savings and credit cooperative organisations, should be explored as the main tools for providing the poor with access to credit.

SMMEs

555. The Basotho Enterprises Development Corporation (BEDCO) was established in 1975 as a subsidiary of the LNDC. It was established by Act No. 9 of 1980 (as amended) as a fully fledged parastatal of the government of Lesotho. The affairs of the corporation are managed and controlled by a board of directors through a chief executive officer (CEO) who is the head of the corporation. The board is appointed by the MTICM.



556. The mission of BEDCO is to contribute to the economic development of Lesotho by assisting Basotho SMMEs to develop entrepreneurship, and business and management capabilities, in an affordable way. This is done through training, consultancy/counselling, technical and financial assistance, providing machines and equipment, facilitating workshop hire, subcontracting, and procuring raw materials.
557. To achieve its objectives, BEDCO comprises two core departments. These are the Enterprise Development and the Promotion and Operations departments. The primary role of the Department of Enterprise Development is to provide business development support for SMMEs. Among its services are: preparing projects; preparing, monitoring and following up business plans; training; consulting; and administering credit schemes, like bridging finance for short-term financial assistance and microfinance. The Department of Promotion and Operations provides for the infrastructure requirements of SMMEs in the whole country, like workshop space and business cubicles. It also supports business in procuring raw materials, hiring machines and subcontracting. Between them, the two departments offer the following services:
- Technical and business management training for entrepreneurs and trainees on various programmes.
 - Assistance in preparing project proposals and business plans for entrepreneurs seeking financial assistance from various organisations.
 - Providing business counselling and advisory services and monitoring ongoing projects.
 - Providing marketing support for entrepreneurs participating in local and regional trade fairs and exhibitions.
 - Information dissemination.
 - Bulk purchasing for entrepreneurs in woodwork and shoe production.
 - Machine hire for woodworking and sewing entrepreneurs.
 - Providing fully serviced rental workspace for entrepreneurs. This service is available in Butha-Buthe, Leribe, Maseru, Mafeteng, Mohale's Hoek and Qacha's Nek.

iii. Recommendations

558. The APR Panel recommends that Lesotho:
- Promote a culture of good corporate governance by:
 - Opening up an institute of corporate governance that is responsible for providing seminars and workshops on corporate governance for executives and middle management on an as-needed basis.
 - Undertaking public awareness campaigns about disseminating critical information on corporate governance to the general public.
 - Offering courses on corporate governance at university level. (*Government of Lesotho, private sector, academia*)



- Improve accountability and transparency at the corporate level by improving the legislative framework, in particular with regard to the appointment of boards of directors. (*Government of Lesotho*)
- Revise administrative rules for government agencies to reduce cumbersome red tape in order to promote an efficient working culture and reduce corruption. (*Government of Lesotho*)
- Promote an effective and workable public-private sector partnership by creating a working group or task force that meets regularly to draft phase-by-phase action plans for creating such a partnership that could significantly pave the way for accelerated private sector development. (*It is proposed that the task force should comprise: two members from the LCCI; two members from private sector institutions; two members from BEDCO; two members from the LNDC and the Investment Promotion Council; and two members from the MTICM.*)
- In the absence of a local stock exchange and because of the lack of access to credit, promote or create other forms of share-trading activities (like an over-the-counter market) to help local entrepreneurs combine in *share-trading schemes* to open and operate small and medium companies or industries. (*LCCI, BEDCO, LNDC and the Investment Promotion Council*)

Objective 2: Ensure that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability

i. Summary of the CSAR

Human rights and labour laws

559. The Labour Code of Lesotho recognises the right to unionise. More specifically, it guarantees all workers and employers the right of association in all sectors of the economy, including agriculture. Public officers are governed by the Public Service Act of 2005, which provides for the right to freedom of association. There are three trade union centres and 43 unions. There are, however, no studies indicating what percentage of the workforce belongs to trade unions.
560. During the previous five years, there have been substantial improvements to workplace conditions in Lesotho. This is attributable to individual and collective efforts by government, trade unions and international buyers, like the Dutch Clean Clothes Campaign, a nongovernmental organisation (NGO). Although the labour law regime in Lesotho is very robust, it is necessary to step up enforcement. Stakeholders singled out textile and garment factories, where safe working conditions are not always maintained. In addition, an extremely high HIV and AIDS infection rate among garment workers has led to conflicts over benefits such as sick and funeral leave.

Environment

561. Among the critical environmental issues facing Lesotho are pollution from industrial enterprises, commercial activities and domestic demands for fuel energy. Uncontrolled mining production, which includes diamond digging, dolerite and sandstone quarrying, and clay mining, is also worrying.



562. Lesotho's environment is constitutionally protected and Lesotho is also a party to several international conventions such as:
- The 1992 Rio Declaration on the Convention on the International Trade in Endangered Species of Wild Fauna and Flora.
 - The Convention on Fishing and Conservation of the Living Resources of the High Seas.
 - The Convention on Climate Change.
 - The Convention on Biological Diversity.
 - The Montreal Protocol on Substances that Deplete the Ozone Layer.
563. Lesotho also endorses regionally accepted principles like the SADC Policy and Strategy for Environment and Sustainable Development and the African Ministerial Conference on the Environment (AMCEN).
564. Lesotho developed NEAP, although its implementation has been slow. It was only in 1994 that the small NES was created to advise the government of Lesotho on matters relating to environmental management. Initially located in the Office of the Prime Minister, the portfolio is now under the Ministry of Tourism, Environment and Culture. The Ministry of Environment, Gender and Youth Affairs, set up in 1998, has also been spearheading environmental issues in the country. The Environment Act was adopted in 2001 to provide the framework for managing the environment and natural resources in Lesotho.

Corporate citizenship and public-private partnerships (PPPs)

565. The largest businesses in Lesotho support initiatives designed to expand social services and benefit the nation. Buyers of textiles, for example, help to mitigate the negative impacts of HIV and AIDS on communities and limit the spread of the virus. Buyers have partnered with international relief organisations such as CARE, which have developed programmes on the ground to combat the virus. Some have argued that these HIV and AIDS programmes are fragmented and haven't experienced much success. The CSAR also mentions a locally based arm of a Taiwanese charity called the Tzu Chi Relief Organisation. The charity aims to provide relief to the local poor, the disabled and AIDS orphans.

Civil society organisations (CSOs)

566. The legislative framework within which CSOs operate is loose and contributes to the reasons for weak internal management systems in these organisations. For example, the Societies' Act (1966) and the Cooperative Societies' Act (2000), which regulate CSOs, do not make adequate provisions for accountability and transparency in the internal management systems of the organisations. Lack of proper monitoring mechanisms in the laws undermines good governance.



ii. Findings of the CRM

Human rights and labour laws

567. The CRM confirms that Lesotho indeed has a robust labour law framework. The principal of these is the Labour Code Order No. 24 of 1992 and the Trade Union Regulations. The Labour Code (Amendment) Act No. 3 of 2000 establishes the Labour Court and the Labour Appeal Court and provides for their functions. It amends the Labour Code Order of 1992 to establish the Industrial Relations Council and the Office of the Director of Dispute Prevention and Resolution. It also provides for the conciliation and arbitration of disputes. The Labour Code [Directorate of Dispute Prevention and Resolution (DDPR)] Regulations Legal Notice No. 194 of 2001 makes provisions for the procedures to be adopted in referring and filing cases before the DDPR. Other pieces of legislation on labour include the Labour Code (Codes of Good Practice) Notice of 2003 and the Labour Code (Conciliation and Arbitration Guidelines) Notice No. 1 of 2004.
568. There are other Acts which are relevant to labour specifically and promote the realisation of basic rights and freedoms. These include:
- The constitution of Lesotho (Act No. 5 of 1993), which safeguards fundamental human rights and freedoms.
 - The Police Service Act of 1998.
 - The Public Service Act of 2005.
 - The Ombudsman Act No. 9 of 1996, which protects human rights.
 - The Societies' Act of 1996, which deals with freedom of association, collective bargaining and industrial relations.
 - The Race Relations Act No. 9 of 2005, which deals with nondiscrimination.
 - The Education Act No. 10 of 1995, the Lesotho Technical and Vocational Training Act No. 25 of 1984 and the Higher Education Act No. 1 of 2004, which deal with education, vocational guidance and training.
 - The Cooperative Societies' Act, 2000 (No. 6 of 2000).
 - The Public Holidays Act No. 7 of 1995.
 - The Old Age Pensions Act No. 3 of 2003.
 - The Mine Safety Act No. 4 of 1981.
569. Stakeholders seemed positive about the treatment of workers, particularly in the public service. Most private sector corporations also perform positively with regard to medical aid, pension schemes and workplace HIV and AIDS policies.
570. The CRM nevertheless confirmed that there are contestations between workers and employers, particularly in the textile industry, over benefits like sick and funeral leave because of the extremely high HIV and AIDS prevalence rates. Other issues raised include the basic human rights of the privacy and confidentiality of medical reports, as employers were said to refuse doctors' notes for



sick leave but to demand actual medical or diagnosis reports. The motivation for this is to identify those infected with HIV and AIDS who were then said to be potentially liable for dismissal. Female workers also complained about the adequacy of maternity leave, which was said sometimes to be as short as one week compared with the legally mandated three months. Allegations were also made about discrimination against local staff in foreign-owned companies. In addition, short-term employment and casual staff prevail. These have disadvantages in terms of job security and benefits. Commendably, there is no evidence of child labour in the textile industry, but children are visible in road-side vending and cattle herding. There is also a prevalence of child-headed households because of HIV and AIDS.

571. Trade unions in Lesotho face challenges in their capacity to mobilise and represent the interests of the working class strategically and effectively. The federations are underresourced and unable to retain qualified staff. This, in turn, affects their ability to resolve labour disputes effectively.
572. With regard to the public service, key concerns are bureaucracy, poor service delivery and lack of motivation. Reforms are being made to address them. They include evaluating performance and introducing overtime pay for some public officials as incentives to perform better.
573. Apart from labour laws and their implementation, the inordinately high unemployment rate (about 40 per cent) is worrying. It is bound to get worse in the current global economic crisis. Demand for Lesotho textiles from the USA and other partners has fallen to a trickle. As the finance minister noted in the 2009/2010 budget speech, the jobs of over 42,000 workers are threatened. Lay-offs will have a spillover effect to other sectors, such as transport and the taxis used by the workers. The falling prices of commodities, like diamonds, have led to Lesotho migrant workers in neighbouring South Africa being retrenched and operations in budding Basotho mines being reduced. Against the background of high HIV and AIDS prevalence rates, heightened poverty, a declining agricultural sector and unpredictable climatic conditions spell catastrophic consequences for the Lesotho labour industry and the realisation of sustainable development. Worryingly, the CRM did not detect an appropriate policy response to the impending catastrophe.

Corporate citizenship and PPPs

574. The general view is that not much is being done by corporations about CSR. This is particularly true in terms of supporting sustained community and social programmes or PPPs. One company that was singled out as being supportive of community projects is the Lesotho Highlands Development Authority (LHDA). Its work regarding CSR includes making compensation grants to individuals and communities affected by its activities and promoting sustainable livelihoods in project communities. In this regard, the LHDA has established an effective sustainable development subcommittee to provide oversight over health, safety, socioeconomic risks and rural development. The LHDA has several projects in this regard. They include water and sanitation, natural resources, improving incomes and integrated water catchment. It also participates in various tourism development projects such as the Katse Botanical Garden. The CRM was also informed about graduate development programmes under the auspices of the LHDA.
575. PPPs are still a nascent terrain. The minister of finance and development planning, in his budget speech of 2009/2010, nevertheless expressed the intention of the government of Lesotho to lay out



a clear framework for using PPPs to finance and operate public infrastructure in order to enhance service delivery. An often-cited example in this regard is the Maluti Referral Hospital at Botsabelo that was developed under a PPP with the MoFDP. Other PPP initiatives include establishing the Lesotho Business Council and the Smart Partnership.

iii. Recommendations

576. The APR Panel recommends that Lesotho:

- Step up efforts to monitor and enforce laws against unlawful labour practices such as child labour and gender discrimination. (*Ministry of Employment and Labour, trade unions*)
- Develop a strategic vision for CSR. (*Government, private sector*)
- Raise public awareness about waste management. (*Ministry of Environment, Gender and Youth Affairs, nonstate stakeholders*)
- Encourage PPPs for development projects. (*Government, private sector*)

Objective 3: Promote the adoption of codes of good business ethics in achieving the objectives of corporations

i. Summary of the CSAR

577. Lesotho has enacted the PCEO Act of 1999, administered by the DCEO. The Act is unique in that it requires civilians to report incidents of suspected corruption. Legislation, particularly the Financial Institutions (Anti-Money Laundering) Guidelines 2000¹⁷, is also in place. These deal specifically with money laundering. The Office of the Ombudsman was established in 1996 to protect citizens and the general public against infringements of their rights by public sector agencies. The quality of the media is seen to be improving.

ii. Findings of the CRM

578. The CRM finds that there are no explicit regulations for good business ethical practices. It finds very little information, except in a few institutions, about promoting good business ethics in general and about the availability of written and up-to-date codes of ethics. Much seems to be left to the 'good-naturedness' of the Basotho people and the corporate world. Conflicting views emerged about the degree of trustworthiness among business stakeholders. SMEs, for example, expressed a lack of trust among the indigenous business people. However, some institutions, in both the public and private sectors, expressed trust in the integrity of leadership. The Basotho people have a unique monoculture. More than 90 per cent of the Lesotho inhabitants belong to one tribe and everyone is therefore somehow related to everyone else. Issues like nepotism, conflicts

¹⁷ Legal Notice No. 199 of 2000.



of interest and influence peddling are therefore complex. The CRM also views the outdatedness of most legislation, such as the Companies Act, and the absence of an active Institute of Directors or other body responsible for promoting corporate governance as major drawbacks to promoting, regulating and enforcing ethics in the country.

Codes of ethics

579. The CRM finds that very few institutions in Lesotho have a code of ethics. According to the Office of the Auditor General (OAG), the SOEs that have a code of ethics are the Lesotho National Breweries and the LNDC. Some SOEs, like the LRA, have no written code of ethics, although officers were said to act ethically. The LHDA, in its General Working Conditions of (Employment) Work, outlines the expected ethical behaviour of its employees. These guidelines include rules for accepting gifts and rewards, for protecting the image of the LHDA and for protecting the confidentiality of information. The LHDA acknowledges the inadequacies of the guidelines and has started to revise its code of conduct. It was reported by the authority that a board charter exists and that it provides a code of conduct for its board of directors. The CRM was also informed, but did not see, the Procurement Procedures Manual. It was said to be rigorous and offered clear guidelines on bidding for, evaluating and awarding contracts within the procurement systems of the organisation. LIA has adopted the code of ethics provided by IFAC and it applies to all its members.
580. In the private sector, the Lesotho Textiles Association informed the CRM that a code of ethics exists and that it applied to all its members. The CRM cannot verify the extent to which these codes were applied by individual textile companies. However, stakeholders reported that, because of cultural differences between the majority owners of these textile firms (predominantly Asians) and the Basotho, there have been clashes in the past on what constituted ethical conduct. The smaller SMEs interviewed reported that they did not have codes of ethics and that they relied on their consciences to guide their ethical conduct.
581. Although general awareness about codes of ethics does exist in larger corporations, including SOEs and ministries, it is recommended that Lesotho should take a more serious interest in the subject by ensuring that all organisations introduce codes of ethics. This would entail more than just documenting 'the do's and the don'ts'. It means creating a culture of systematic reference to the codes by all employees.

Corruption

582. While the successes of the LHDA corruption cases were still fresh in the minds of many in Lesotho, the LHDA took the cases very seriously and developed clear and transparent policies, procedures, manuals and codes from the lessons learnt from the cases (see box 5.2) in order to reduce corruption. The authority has shared its lessons with the DCEO in Lesotho and many forums and countries in the region, including South Africa. According to the DCEO, now that the LHDA is about to embark on phase 2 of the project, due diligence has to be part of a daily exercise for all involved.
583. The CRM was informed that, although there were successes from the LHWP cases, the lessons learnt remain with the organisation, as corruption continues to grow nationally in size and



sophistication. For example, it was revealed that, after the 1998 violence, a tax amnesty was granted to affected businesses which could not produce financial reports and tax computations. The result was that, through connections with government officials, many undeserving people, some of whom did not run businesses, benefited from the amnesty.

584. The relatively high unemployment levels result from the net surplus of young educated people who can no longer be absorbed into the civil service or by South African mines. This has led to high levels of nepotism at all levels and in all economic sectors. A case cited by various stakeholders was one involving a top official in the LNDC, whose wife was reported to have been employed in a company that had directly benefited from the support of the LNDC. The media was praised for revealing this case. However, the media in Lesotho is generally perceived to be weak. The CSAR itself notes that the media in Lesotho lacked the necessary financial reporting and investigative skills to expose cases of corruption. The ability of the DCEO to analyse cases of money laundering carefully is hampered by a shortage of appropriately trained staff in the directorate. Although there are proposals to set up a Financial Intelligence Unit (FIU) within the directorate, supported by the US government, there are concerns that the current anti-money laundering regulations tend to be too closely linked to the antiterrorism efforts in the USA following the 11 September 2001 terror attacks. This hampers the effective domestication of these regulations in the context of Lesotho.

Box 5.2: LHWP: Developing own brand of corporate governance ensures sustainability and strengthens regional integration

Lessons learnt from the LHWP corruption cases challenged the organisation to come up with regulatory and compliance frameworks for corporate governance as well as for checks and balances suitable for such a transborder and complex organisational structure.

Preventative measures include:

- Tightening procurement procedures, including the bidding for, and the evaluating and awarding of, contracts.
- Awareness programmes for staff.
- Internal audit measures.
- Additional checks and balances outside the executive, that is, on the board and in the LHWP Commission.

Measures for dealing with multinationals include:

- The need for properly drafted bidding documents that need to be clear and concise.
- The need to make detailed geotechnical investigations mandatory for all tender contracts and to ensure that the results are disclosed to tenderers.
- The need to ensure that any information provided to tenderers is benchmarked against international practice, especially geotechnical reports, and that any changes from standard practice are fully documented and accepted by all authorities.



- The need to ensure that, where there are doubts about the interpretation of results, the tender documents provide for worst-case scenarios, with well-defined options to change, should the actual conditions encountered improve (an example is transfer tunnel lining).
- The need for independent and internationally renowned panels of experts to provide good audits of the design and delivery of the programmes.
- The need to establish clear roles, responsibilities and reporting lines.
- The need to employ strong and impartial employers' representatives or consultants to supervise contractors.
- The need to undertake due diligence.
- The need to avoid investing too much power in one person.
- The need to undertake frequent independent fraud and corruption risk assessments.
- The need to develop and implement an ethics and fraud hotline.
- The need to intensify fraud and corruption awareness training.
- The need to develop a code of ethics.
- The need to establish a fraud policy and response plan.

Source: LHDA.

Conflict of interest

585. In a country like Lesotho, where 90 per cent of the people belong to one tribe (the Basotho), conflict of interest becomes complex and delicate. Conflict of interest occurs when a public official has a private or other interest which is such that it influences, or appears to influence, the impartial and objective performance of his or her official duties¹⁸. Conflict of interest is a situation rather than an act. Ordinarily, many people are likely to find themselves in such a situation given their many social roles and the close relationships between the Basotho people. In this situation, high levels of conscious and deliberate decisions to exercise integrity are called for. Regulations alone cannot address this issue.
586. Many different stakeholders informed the CRM of possible conflict of interest by the public sector as many civil servants own, or are associated with, private business ventures. One stakeholder in Thaba-Tseka said "the civil servants must stop competing with the businesses, as this is unfair competition". The civil servants have an 'unfair advantage' over businesses because they have inside information, decision-making powers, regulations and tenures of office that outlive most SMEs.
587. According to the DCEO's office, conflict of interest in Lesotho has deep implications in that it was causing polarisation among the Basotho, particularly along political lines.

¹⁸ Reed, Q (2008). See U4 Issue 6:2008, www.U4.no.



iii. Recommendations

588. The APR Panel recommends that:

- Lesotho strengthen the institutional capacity of the DCEO through staffing and through proper skills training in order to enable it to investigate economic crimes efficiently and effectively. (*Parliament, minister of finance and development planning, DCEO*)
- Lesotho carry out advocacy campaigns, through the DCEO's office, to promote business, work and individual ethics in all sectors (public, private and civil society) in order to encourage integrity, respect for systems, and efficiency and effectiveness, to emphasise the importance of safeguarding national assets, and to raise awareness regarding conflict of interest and other related matters. (*DCEO, government of Lesotho, media, the private sector*)
- With regard to conflict of interest, some of the immediate actions that Lesotho authorities could consider are to:
 - Ensure that civil servants do not hold certain positions outside of their official functions or practise business activities that would bring about conflict of interest.
 - Raise awareness of conflict of interest, and its correlation with corruption, across all sectors in Lesotho so that people are able to recognise situations where their private interests conflict with their official duties.
 - Provide clear regulations and guidelines, whose objectives are to prevent conflict of interest as far as is practicable and as much as possible, and establish rules on how officials should respond when conflict of interest arises.
 - Provide guidance for public officials in order that they may protect themselves.
 - Develop leadership codes that clearly outlaw holding certain positions, functions or interests in addition to official public posts.
 - Encourage a culture of declaring interests among all who hold public office in decision making roles.
 - Stringently enforce laws and rules that require officials to declare their wealth and assets upon entry into the public service or on promotion into a position with potential illicit enrichment. These measures will have a preventive function, as they can help anticipate potential conflicts of interest before misconduct occurs. They also have an investigative function, as they can provide valuable information that may help uncover misconduct and illicit enrichment after it takes place. (*Government of Lesotho, Parliament*)



Objective 4: Ensure that corporations treat all stakeholders (shareholders, employees, communities, suppliers and consumers) fairly and justly

i. Summary of the CSAR

589. The Companies Act No. 25 of 1967 protects shareholder rights. It was last amended in 1984 by the Companies Amendment Act No. 35 of 1984, thereby broadening the classification of companies. On the whole, the Act and its amendments favour both premium and redeemable preference shares. Lesotho ratified all international and regional conventions and protocols on intellectual property in 1986. The World Intellectual Property Organization (WIPO) assisted the government of Lesotho to develop the Industrial Property and Copyright Orders of 1989. The CSAR does not address consumers' and creditors' rights.

ii. Findings of the CRM

Shareholders' rights

590. The Companies Act (1967) provides for shareholders' rights in meetings via section 97. This states that every company shall, within a period of not less than one month or more than three months from the date at which it is entitled to commence business, hold a general meeting of its members which shall be called 'the statutory meeting'. Subsection 2 requires that directors, at least 14 days before the day on which the meeting is held, forward a certified report (in this Act referred to as 'the statutory report') to every member of the company. The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising from the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed. Section 102 provides for a shareholder's right to appoint a proxy to attend and vote on the shareholder's behalf. Section 110 gives a shareholder the right to be furnished, within 14 days after he or she has made a request in that regard to the company, with a copy of such minutes as aforesaid certified by the secretary or director as correct, at a charge not exceeding 20 cents for every hundred words.

591. The LHDA was one organisation which confirmed strict adherence to these provisions for shareholders. Because of the limited information provided by the officers whom the CRM met at the LNDC, the CRM was unable to verify whether shareholders' rights were generally upheld.

Stakeholders' rights

592. The CBL website confirms that the Commercial Court was established and that the CBL hoped that the court will expedite hearing commercial cases and thus promote financial intermediation. However, it was reported that, despite the high numbers of pending commercial cases, the court was underutilised. A six-day Trial Advocacy Course for commercial lawyers was introduced, through the joint efforts of the High Court of Lesotho and the CBL, to improve the performance of the Commercial Court. The course was facilitated by members of the Black Lawyers Association of the Republic of South Africa and was attended by officials from the public, private and NGO



sectors. The purpose of the course was to assist commercial lawyers to understand the rules and procedures of the Commercial Court better. The full impact of the Commercial Court on stakeholder rights is yet to be realised.

Consumers' rights

593. In February 2009, Lesotho was the venue for a conference of the Communications Regulators' Association of Southern Africa (CRASA). Consumer issues, among others, were discussed. A notable issue was the drafting of an additional chapter to CRASA's Consumer Rights and Protection Regulatory Guidelines to address the concerns of people with special needs. The Lesotho Communications Authority, being a member of CRASA, upholds regional consumer rights in the industry.

iii. Recommendations

594. The APR Panel recommends that Lesotho:
- Raise awareness, through advocacy and training, about shareholder rights and responsibilities and about proceedings for annual general meetings, particularly among government ministries, in order to reform the manner in which they appoint directors to SOEs and SMEs. [*LNDC, BEDCO, LCCI, Lesotho Enterprise Assistance Programme (LEAP)*]
 - Publicise the presence and functions of the Commercial Court among the Basotho and continue to raise the capacity of the institution. (*Minister of justice and human rights and correctional services, the media*)
 - Develop consumer protection legal and regulatory frameworks, including a governing body, and raise awareness of the rights and protection of consumers. (*Minister of trade and industry, cooperatives and marketing, minister of justice and human rights and correctional services, LCCI, the media*)
 - Enforce and operationalise intellectual property laws and create awareness of them in the Basotho art and craft industries. (*Minister of justice and human rights and correctional services, minister of trade and industry, cooperatives and marketing, LCCI, the media*)

Objective 5: Provide for the accountability of corporations, directors and officers

i. Summary of the CSAR

595. The main findings of the CSAR are that, although good corporate governance appears to be embraced in Lesotho to some extent, it remains largely at the policy level rather than at the implementation level. Some positive developments include:
- The enactment of the PCEO Act of 1999 (as amended), which covers both the public and private sectors. It is unique, in that it compels civilians to report incidents of suspected corruption.



- The establishment of the Office of the Ombudsman to protect citizens and the general public against infringement of their rights by public sector agencies.
- The implementation of the Financial Institutions (Anti-Money Laundering) Guidelines 2000 by the CBL.
- Great influence by foreign investment enterprises, through their parent and home country policies, on worker issues and CSR policies and practices.

596. On the other hand, shortfalls include:

- Lack of publicly available information on private sector companies in Lesotho.
- Lack of a single approach to board selection for SOEs.
- Undeveloped board governance policy frameworks (for charters and procedures).
- Absence of laws and regulations governing the appointment, conduct and accountability of SOE board members.
- A lenient penalty system for professional malpractice.
- The low margin of solvency for insurance companies.
- Low ceilings on penalties allowed to regulatory bodies for violations.
- Lack of capacity in supervisory authorities, which undermines their oversight effectiveness.
- Slow implementation of government decentralisation because of lack of capacity at the MoLG level.
- Lack of information on the effectiveness of private sector measures to promote good business ethics.
- Lack of uniformity in practices and compliance standards regarding CSR and fragmentation of CSR programmes.
- CSOs that operate under a weak legislative framework. This undermines their effectiveness.

ii. Findings of the CRM

The accounting profession in Lesotho

597. In general, the accounting profession in Lesotho is fairly well developed to meet the needs of the country. However, there is much room for improvement. One of the key areas that would require support is in enforcing accounting regulations in the country. LIA is required by law to enforce its code of ethics to ensure that accountants operate as expected. LIA has, however, very limited capacity to carry out its regulatory function and to enforce its code of ethics.

598. The accounting profession in Lesotho is governed by the Accountants Act of 1977, as amended in 1984. This Act sets basic standards for accounting practice in Lesotho and enforces rules. To do this, section 3 (i) establishes LIA. The functions of the institute are to, *inter alia*:

- Determine the qualifications of persons for admission as members.



- Provide for the training, education and examination by the institute, or any other body, of persons practising, or intending to practise, accountancy.
 - Regulate the practice of accountancy.
 - Promote the interests of accountancy.
 - Render pecuniary or other assistance to members or their dependants, as the institute thinks fit, in order to protect the welfare of members.
 - Carry out such acts as it thinks fit to achieve any of its objectives.
599. Membership of the accounting profession in Lesotho is open to all persons with appropriate qualifications. To qualify, one needs to pass accountancy examinations offered by LIA. As there are no national examinations at the moment, accountancy candidates take Association of Chartered Certified Accountants (ACCA) examinations, which are externally regulated. There are three levels of qualifications in the accountancy profession in Lesotho. These are technician, certificate and professional. The minimum level of general education required to join the accountancy profession is the O level. Currently, there is only one large institution accredited by LIA, the Centre for Accounting Studies (CAS), which provides accountancy training in Lesotho. There are other smaller ones not accredited by LIA that provide training at the technician level. Chartered accountants can be certified as auditors if they satisfy the institute that they have audit experience at an audit firm. At a meeting with LIA, the CRM was informed that LIA has about 300 members. Of these, about 114 are chartered accountants. Nonfinancial reporting (such as on social and environmental issues) is not a requirement, although the Accountants Act does call for nonfinancial disclosure by directors (examples are those regarding conflict of interest).
600. The Accountants Act also spells out disciplinary procedures and penalties for noncompliance. The Act establishes a disciplinary committee that is mandated to deal with complaints and the discipline of members under the auspices of LIA. The institute has developed a disciplinary code and also applies the IFRS code of ethics. On the whole, LIA believes that its members make efforts to adhere to set standards and regulations. Nevertheless, compliance and capacity to enforce them are areas of concern. LIA is aware of this and has launched awareness campaigns. It is also distributing material at cost to members. Efforts are also being made to enforce compliance through quality assurance and practice reviews. In this regard, LIA has a tripartite agreement with ECSAFA and ACCA that allows services for practice reviews to be outsourced.
601. The CRM was informed that LIA seldom deals with fully fledged disciplinary cases. It does, however, mediate in some cases involving its members. The CRM thinks that this may be because of the lack of capacity of the institute rather than because there are few instances of malpractice by members of the accounting and auditing professions in Lesotho. Furthermore, the Accountants Act is fairly antiquated and does not give the necessary legal backing for implementing the IFRS. Penalties for noncompliance, as currently spelt out in the Act, are too modest to ensure compliance. Consequently, the Accountants Act is currently being revised and the draft bill is due to be presented to Parliament.



Private sector financial accounting and auditing practices

602. Although accountability in the private sector is specific to that sector, the role of the private sector in governance is crucial given that it is the engine of economic growth. The accounting and auditing practices of the private sector in Lesotho are generally consistent with normal practice in market economies. All firms in Lesotho incorporated under the Companies Act of 1967 are required to prepare and submit audited accounts, mainly for tax purposes.

Public sector accountability

603. Public sector accountability is the responsibility of the OAG. Section 117 of the Lesotho constitution and the Audit Act of 1973 set out the auditor general's mandate. It requires full audits of all accounts of the consolidated funds of Lesotho and that opinions on all public accounts are issued. In addition, all SOEs have founding legislation that contains a requirement for regular audits. In a meeting with the OAG, the CRM was informed that one key constraint to the auditor general's task is the delay by SOEs and other government entities in preparing and submitting reports for audit, some of which have not done so since 2005. Consequently, for this reason and because of lack of capacity, the auditor general lags behind in presenting the audit reports. The last report prepared by the office, which was given to the CRM, covers the periods 2004/2005 and 2005/2006. In this report, the auditor general once again issued a qualified audit on the state of affairs of Lesotho public funds because of, inter alia, noncompliance with accounting principles like the International Public Sector Accounting Standards (IPSAS) and the government accounting manual.

Internal control and auditing

604. Internal control and auditing are integral parts of a sound financial management system. Internal auditors are key to preventing fraud and detecting errors in the financial management system. These functions are perhaps the weakest and least established in the financial management structure of the government of Lesotho. There is actually no established system of internal control in the financial management structure of Lesotho and there are no specific policies and directives, or laws and regulations, governing this function. This renders the financial management system susceptible to errors and fraud, some of which are reported in the annual auditor general's reports.
605. There is an internal audit cadre in the government of Lesotho. It is headed by the chief internal auditor in the Internal Audit Department based at the MoFDP. There are, however, no internal audit units in the ministries or departments and districts, meaning that the audit function is highly centralised. International best practices, however, require that in-house internal audit functions are available in each ministry to concentrate on high risk and priority areas. There are about 25 internal auditors for the whole government of Lesotho. Of these, only six meet what should be regarded as the minimum level of qualifications, as they have recently become members of the Internal Auditors Institute of South Africa. In carrying out its duties, the Internal Audit Department selects the ministries to be internally audited based on perceived risks. About seven ministries out of a total of 25 are audited each year. Generally, the auditing exercise involves perusing the records kept and interviewing the accounting officers in ministries or departments and the districts. The biggest challenge in this exercise has been finding well-kept records in ministries



and departments for auditing purposes. For this reason, and because of capacity constraints within the OAG itself, no preaudits are currently carried out.

Procurement system (private sector)

606. Private sector firms are an integral part of any *procurement system*. This is because goods and services are invariably supplied by private enterprises. The participation of local private industry in the procurement process in Lesotho is generally high, although it is dominated by large enterprises. The current procurement law does not have provisions for empowering local entrepreneurs. The MoFDP recommends the establishment of a system of reservation and preferential schemes in procurement for local contractors, as is the case, for example, in South Africa. Also missing in the procurement system is an appropriate system of appeals and arbitration. This disadvantages the entire private sector. Currently, any disputes between the government of Lesotho and private contractors are subject to the jurisdiction of the *Basotho* courts. As elsewhere in many African countries, accessing justice through the court system may cause major delays. This is made worse by the fact that there is as yet no commercial division of the High Court of Lesotho. There is, therefore, an urgent need to review the whole system in order to introduce procurement appeals and dispute settlement to the procurement system before resorting to courts of law.

Anticompetitive conduct by firms

607. It is also worth noting that Lesotho does not have a legal framework to address *anticompetitive conduct* by firms. However, debt recovery laws and a commercial court have recently been established. The government has, after a long delay and thanks to the facilitation of the CBL, established a commercial court in an effort to expedite adjudication. It is believed that the delay in adjudicating commercial cases will be avoided, thereby promoting sound financial intermediation. The CBL, the commercial banks, the MoFDP, the MTICM and the Privatisation Unit are among the many local stakeholders who have vested interests in the efficient operations of the Commercial Court.
608. These weaknesses in the legal and administrative framework have had negative effects that have hindered industry from reaching its full growth potential. In response to the need for Lesotho to find ways of eliminating structural and institutional impediments to the growth of the private sector, the government is reviewing its whole private sector development strategy. In this regard, the government organised, with the assistance of the World Bank, a workshop which made recommendations on how some of these constraints can be addressed. In accordance with the recommendations, the government of Lesotho is undertaking measures to: review several laws and business procedures, among other things; strengthen domestic competitiveness by improving skill levels; improve the links between training and industrial needs; provide basic infrastructure to reduce domestic costs for the private sector; and intensify investment promotion measures.



iii. Recommendations

609. The APR Panel recommends that Lesotho:

- Develop regulations and procedures for appointing board members and executives of SOEs and encourage SOEs to establish codes of corporate governance and ethics. (*MoFDP, sector ministries*)
- Review the whole public procurement system in order to introduce procurement appeals and dispute settlement to the procurement system before resorting to courts of law. (*Government of Lesotho*)
- Support LIA in capacity building in the area of enforcing accounting regulations in the country. LIA is required by law to enforce its code of ethics to ensure that accountants operate as expected. LIA has, however, very limited capacity to carry out its regulatory function and to enforce its code of ethics. (*Government of Lesotho, LIA*)
- Create internal audit units in all the ministries, departments and districts instead of having an audit function that is highly centralised. International best practices require that in-house internal audit functions are available in each ministry to concentrate on high-risk and priority areas. (*Government of Lesotho, ministries, departments*)



CHAPTER SIX

6. Socioeconomic development

6.1 Overview

610. Progressive improvements to the standard of living and the welfare of society are the ultimate goals of development policy. Economic growth, wealth creation and the nature of the distribution of benefits to society in terms of health, employment and basic services such as water, electricity and finance are important indicators of performance. Ownership of the development process, that is, the participation of all stakeholders and the quality of the institutions, influences the final outcome in terms of societal welfare.
611. Lesotho is predominantly a rural economy with 76 per cent of people living in rural areas. Poverty is widespread, with about 56.7 per cent of the population living below the poverty line.¹⁹ Lesotho ranked 138 out of 177 countries (in 2007) on the Human Development Index (HDI).²⁰ Life expectancy is estimated at 42.4 years (2006) – a worrisome decline from 49 in 2000, 57 in 1995 and 59 in 1990.²¹ Moreover, the declining population growth rate, together with the high prevalence (23.2 per cent) of the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS), means that Lesotho's limited human resources are steadily being depleted.
612. The structure of the Lesotho economy shows that the primary production sector, agriculture, yielded nearly 20 per cent of the gross domestic product (GDP) between 2001 and 2006.²² Agriculture declined by 7.8 per cent over this period and had an annual growth rate of -1.6 per cent. Growth in the mining subsector, however, increased from 0.2 per cent in 2001 to 6.7 per cent in 2006. The secondary sector as a whole accounts for 39.5 per cent of total GDP. The manufacturing subsector, dominated by the textiles and clothing industry for export to the United States of America (USA) under the African Growth and Opportunity Act (AGOA), accounts for the acceleration in growth. However, the tertiary sector, with an average of 45.4 per cent between 2001 and 2006, accounts for the largest share of GDP. This is dominated by wholesale and retail trade and repairs. The sectoral contribution to GDP is shown in figure 6.1 below.

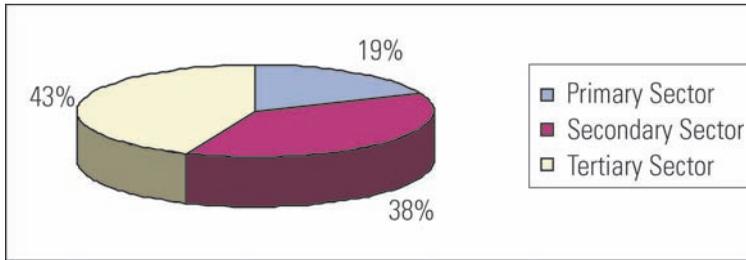
¹⁹ UNDP (2008) Lesotho: Millennium Development Goals Status Report.

²⁰ CSAR (2008).

²¹ World Bank (2009) Millennium Development Goals: Lesotho; World Development Indicators.

²² Government of Lesotho (2009): Draft Growth Strategy, 2008/2009 to 2010/2011.



Figure 6.1: Contribution of sectors to GDP (average of 2001 to 2006)

Source: Government of Lesotho (2009) Draft Growth Strategy.

613. The structure of the economy deserves attention. On the one hand, it portrays an economy that is reducing its dependency on the primary, or low-skilled, sector and rapidly moving towards capital and knowledge-intensive sectors. On the other hand, the structure of the economy presents Lesotho with a quandary. For one, most people still live in rural areas and are mainly farmers and pastoralists. Agriculture therefore remains the main source of livelihood for Basotho people. The declining agricultural sector would therefore be a major source of concern, also because the adverse climatic conditions and land degradation, among others, have resulted in a national food shortage. Lesotho cannot feed its people and has resorted to increasing its imports of cereals and other food products significantly. Therefore, a large number of people currently rely on food aid.
614. Therefore, the structure of the economy, viewed in a nation that is industrialising rapidly, could present a false sense of security. While AGOA has contributed to the growth of the secondary sector, it is no longer an import-export arrangement. Cotton and machinery are imported, while textiles and food products are exported. There are very few forward and backward links and no multiplier effects on the rest of the economy. In any case, the end of the AGOA agreement, together with the global financial crisis, poses real threats to the textile industry. Without doubt, the structure depicted above is not sustainable. Indeed, it is imperative for the primary sector to resume growth on a sustainable basis and for Lesotho to maximise its development of natural resources and aim at self-sufficiency in food production.
615. Indeed, Lesotho faces a number of challenges that could impede its quest for improved socioeconomic development. These challenges are associated with its unique physical, technological and human development settings. Geographically, the country is landlocked and completely surrounded by South Africa, its main trading and monetary partner. About two-thirds of the country consists of high mountains and narrow valleys. Only 9 per cent of the land is arable and suffers from soil erosion and overexploitation. The little arable land is also not used optimally for production. Smallholder food production and animal husbandry are the main economic activities in rural areas. Poverty is endemic and food deficits are chronic. The poor grow less than 20 per cent of their needs and have to depend for between 20 and 35 per cent of their needs on other sources, which include food aid. Such an agrarian economy is not self-sustaining. It is incapable of generating gainful employment and raising incomes to alleviate poverty unless the sector is significantly transformed.



616. The rugged and difficult terrain raises the costs of building infrastructure and providing basic services, particularly to remote areas. It also discourages building new sites as development poles. Opportunities for diversification do, however, exist. Prudent use of the country's abundant natural resources, particularly water for irrigation, domestic use and export, are one such viable option. The ample potential of tourism could also be exploited.
617. The HIV and AIDS pandemic presents Lesotho with its most difficult human and economic challenge. Available data suggest that the country has one of the highest incidence rates among adults in the world (23 per cent). It is a major risk to all segments of the society and is indeed an impediment to achieving any significant improvement in health outcomes. A costly scourge – economically and socially – it has also been linked to the deterioration in other vital economic and social indicators. This includes the decline in life expectancy at birth, infant and child mortality, morbidity, slow growth in the labour force, loss of skills and the increase in the number of orphans. It also accentuates deep-seated poverty and the precarious food situation, particularly in the rural areas where it hit agriculture hardest. The economic and fiscal implications are worrisome, as it also reduces the resources available for generating capital and providing basic services. Scaling up its HIV and AIDS response is at the centre of government's concerns, not only in respect of prevention and treatment, but also in creating, with the support of the community, an enabling environment where all citizens become effective partners in the response to the pandemic.
618. The poverty profile for Lesotho paints an alarming picture, despite the improvements shown by the 2002/2003 Household Budget Survey (HBS). The survey reveals that 56.6 per cent of people are poor. About 29 per cent are considered food poor and 18.7 per cent severely poor. The data also shows that the percentage of poor, female-headed households increased from 28.9 per cent in 1994/1995 to 33.8 per cent in 2002/2003. Poverty is also highest among households headed by subsistence farmers and is most severe in the mountain areas. The vicious cycle of poverty appears to be most obvious in the country and could only arguably be broken through increased volumes of investment directed to all economic sectors and social groups. Otherwise, poverty may increase further and continue to pose a binding constraint on development and social welfare.
619. Remittances from South Africa, which accounted for about half of gross national product (GNP) in the late 1980s, have shrunk to about one-fifth lately. Remittances not only reduced in volume, but the number of returnees retrenched by the mines is growing steadily. Most of them do not possess the skills needed to compete for jobs in the modern sector and most of them lack the necessary capital to establish businesses of their own. The burden of their reintegration will therefore fall on their families, who are also mostly poor, and the poorly productive rural sector from which most of them came originally. The employment challenge was also worsened by the increase in the size of the labour force and the limited opportunities in industry. The government cannot afford to be indifferent to the situation. It is therefore necessary to broaden the economic base to activities in which the country has inherent comparative advantage, such as tourism and horticulture.
620. According to the HBS data, unemployment remained high at 23.2 per cent of the total labour force in 2002/2003. However, it fell from 28.7 per cent in 1994/1995. Of this, 8.9 per cent were people with primary education. They were followed by those with nonformal education at 7.9 per cent. The unemployment rate for males was 14.7 per cent, outnumbering their female counterparts at



8.5 per cent. The proportion of unemployed males and females for 2002/2003 was estimated at 7.1 per cent and 4.6 per cent respectively. Overall, the unemployment situation does not seem to have improved since 1994/1995, as the ratios remained close – 7.7 per cent for males and 3.9 per cent for females. Regionally, the incidence of unemployment among males also showed that unemployment was most pronounced in the rural lowlands (8.2 per cent) and rural foothills (7.3 per cent). The proportion of unemployed females was higher than the national average for females in Maseru (5.3 per cent) and other urban areas (5.8 per cent) in 2002/2003.

621. Inadequate infrastructure in terms of the range and quality of services, particularly transport, power supply, water and sanitation, presents barriers to increasing the domestic and regional markets for Lesotho. It also has adverse effects on the welfare of the people. Transport bottlenecks, in particular, increase transaction costs and discourage the inflow of foreign direct investment (FDI). Regional trade across the border is also inhibited by time as border and customs handling consumes time. Besides, although there was considerable progress in recent years, the water supply to industry and for household consumption needs further action.
622. Implementation is the key to realising the benefits of development programmes at the national and the subregional level. Poor implementation increases demand for improved service delivery on the ground and leads to concerns about the slow pace of socioeconomic development. Institutional issues, particularly in the coverage and quality of extension services and land reforms, underlie the slow progress in transforming agriculture. The health sector, in particular, is handicapped by inadequate human and financial resources and the lack of incentives to retain medical professionals and skilled health-care workers. Given the remuneration differentials between Lesotho and South Africa, the brain drain is emerging as a critical challenge to the health-care services in the country. Capacity building efforts are strongly emphasised in government policy. However, the outcomes on the ground were questioned by the beneficiaries. Robust monitoring and evaluation systems need to be established urgently. The collection of regular, detailed data on the various issues of concern to society is important and most urgent. Among the problems that hinder effective implementation are the lack of human capacity and appropriate skills, limited resources and poor accountability. Monitoring and oversight mechanisms are still invisible at local levels.
623. Tackling all the challenges and producing change depend on developing clear development strategies and programmes that reflect the priorities of the people. They also rely on developing a vision that reflects the choices of the nation, including decisions on deeper integration with its neighbours, particularly South Africa and other Southern African Development Community (SADC) countries. The vision and the national mobilisation efforts would inevitably contend with the need for carefully assessing the short- and long-term costs and benefits. These will include candid reflections on the opportunities open to Lesotho.
624. Despite these challenges, Lesotho has made, and continues to make, commendable efforts to address poverty and development. Positive developments include its high literacy rates, including women in the development process and the plethora of sound policies and strategies to tackle poverty. Lesotho is also developing the Growth Strategy 2008/2009 to 2010/2011 in order to stimulate economic growth and combat poverty. The strategy promises to focus on agriculture, infrastructure, land, trade, education and training, and on information and communication



technology (ICT), among others. This is a shift from past approaches that focused mainly on the social sectors. In other words, the government recognises that focusing on the growth sectors is the most effective way of tackling poverty in a sustainable manner.

6.2 Standards and codes

i. Summary of the Country Self-Assessment Report (CSAR)

625. The CSAR confirms that Lesotho has signed and ratified the African Charter on the Rights and Welfare of the Child (1999) and the Constitutive Act of the African Union (AU) (2001). The CSAR also notes that, at the 2000 Millennium Summit of the United Nations (UN), Lesotho adopted the Millennium Declaration. This sets concrete indicators to lift countries out of extreme poverty by 2015. The Millennium Development Goals (MDGs) include reducing poverty by half, providing equal access to education, providing better health care, decreasing child mortality, and reducing the prevalence of HIV and AIDS. The declaration defines the roles and responsibilities of all stakeholders. They include national governments, international organisations, citizens, civil society organisations (CSOs), nongovernmental organisations (NGOs) and private sectors. In agreeing to the MDGs, the government recognised that it was necessary to act through local communities and decentralised state departments and to create stronger decision-making bodies to manage public resources at community level.
626. No further information on standards and codes is given in the CSAR.

ii. Findings of the Country Review Mission (CRM)

627. According to the CRM, Lesotho has adopted, signed or ratified all the standards and codes in the African Peer Review Mechanism (APRM) framework for socioeconomic development. They include:
- The 2000 Constitutive Act of the AU.
 - The 2001 African Charter on the Rights and Welfare of the Child.
 - The 1983 African Charter on Human and People's Rights and the 2004 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.
 - The 2001 New Partnership for Africa's Development (NEPAD) Framework Document.
 - The 1990 African Charter for Popular Participation in Development and Transformation.
 - The 2000 UN Millennium Declaration.
 - The 2002 World Summit on Sustainable Development (WSSD).
 - The 1980 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
 - The 1996 UN Declaration on the Right to Development.
 - The 1995 World Summit for Social Development Programme of Action.



628. Lesotho ratified the Instruments of Ratification of the Constitutive Act of the AU on 12 March 2001 and is engaged in the activities of the APRM. The latter are supported by its success in being the 11th of 28 countries to receive the APRM CRM. Lesotho has also shown its commitment to the NEPAD Framework Document through its involvement with the Comprehensive Africa Agricultural Development Programme (CAADP), by scheduling a national stakeholder workshop to include NEPAD priorities in Lesotho's national plans and, more recently, by piloting the e-schools project.
629. Lesotho ratified the African Charter on the Rights and Welfare of the Child on 28 November 1999. However, the Ministry of Justice and Human Rights and Correctional Services confirmed that compliance in the form of legislation, to ensure that all the provisions in the convention are incorporated, has been very slow because of limited staff capacity. However, efforts are ongoing to ensure that all the provisions in the charter are reflected in national laws.
630. Lesotho ratified the UN Convention on the Rights of the Child (CRC) in 1992 and submitted its initial report on implementing the convention in 1998. With regard to compliance, Lesotho ratified conventions 138 and 182 of the International Labour Organization (ILO), on the minimum working age and on eliminating hazardous forms of child labour respectively, during 2001. While noting the positive steps taken in the country towards implementing the CRC, the concluding observations from the Child Rights Committee in 2001 pointed out several areas of legal constraints and weaknesses. They included:
- Aspects of customary law.
 - Absence of legislative and administrative measures and procedures to facilitate the registration of children at birth.
 - Lack of clarity in defining the child.
 - Different pieces of legislation on childhood at different ages.
 - The lack of measures to implement legislation prohibiting corporal punishment in schools and governing care and the juvenile justice and other criminal justice institutions.
 - The Adoption Act of 1952 that predates independence.
 - Effective enforcement of labour laws and those that protect children from economic exploitation.
 - The need to reinforce the enforcement of legislative frameworks to protect children fully.
 - The need to reform the juvenile justice system to make it compliant with certain principles of the CRC.
631. On the whole, legislative instruments in place for children's rights are seriously outdated. They include:
- Before independence*
- The Women's and Girl's Protection Proclamation (1949).
 - The Adoption Proclamation Act (1952).
 - The Prisons Proclamation (1957).



After independence

- The Citizenship Order (1973).
 - The Births and Deaths Act (1973).
 - The Marriage Act (1974).
 - The Children's Protection Act (1980).
 - The Criminal Procedure and Evidence Act (1981).
 - The Labour Code (1992).
 - The Constitution of Lesotho (1993).
 - The Education Act (1995).
 - The Defence Act (1996).
632. Lesotho signed the African Charter on Human and People's Rights on 7 March 1984. Fundamental human rights and freedoms for all persons irrespective of race, colour, sex, language, religion and political persuasion are enshrined in the constitution of the country. The constitution also establishes social, economic and cultural rights as principles of state policy, subject to limits of the economic capacity and development of the country. A legal aid department has been established to facilitate easy access to justice by vulnerable or marginalised groups. However, this is located only in Maseru and is therefore not accessible to all.
633. The CRM finds that Lesotho is making steady progress in implementing the Millennium Development Declaration. This is discussed in more detail under objective 2 of this chapter.
634. The country signed the WSSD in 2002. This urged states to take immediate steps to make progress in developing and elaborating national strategies for sustainable development and to begin implementing them by 2005. The Ministry of Tourism, Environment and Culture has been designated as the National Focal Point for the WSSD. In addition, integrating the principles of sustainable development into country policies and programmes is one of the targets, contained in the UN Millennium Declaration, to reach the goal of environmental sustainability.
635. Lesotho ratified CEDAW with the UN secretary-general on 22 August 1995. In an effort to domesticate CEDAW, Lesotho developed a Gender and Development Policy. It seeks to ensure equality of all opportunities between men, women, boys and girls so that development efforts have equal effects on both genders. The policy is intended to facilitate the proper integration of gender issues in development in order to ensure full involvement, participation and partnership of women and men, girls and boys in their productive and reproductive lives. The CRM learned that the government has acted to repeal obsolete laws that prevented women from accessing land and credit. Women are also increasingly being represented in government at national and local levels. However, women are still underrepresented in Parliament.
636. Lesotho has also ratified several other conventions. They include: the SADC Protocol against Corruption (2003); the Protocol against Trafficking (2003); Protection of the Rights of Migrant Workers (1990); and the Convention to Combat Desertification. On the whole, the level of compliance with



the standards and codes varies. There are, for example, very modest achievements with regard to the MDGs, the rights of the child, and so on. There are also few investments in sustainable development, as no efforts have been made to reduce soil erosion. However, the CRM appreciates the ongoing efforts in the area of alternative sources of energy, such as solar power, and the achievements in advancing gender equality and in promoting social welfare.

iii. Recommendations

637. The APR Panel recommends that Lesotho:

- Translate standards and codes into Sesotho and create more awareness about them. (*Government of Lesotho*)
- Enforce compliance with all ratified conventions. (*State and nonstate stakeholders*)

6.3 Assessment of performance on APRM objectives

Objective 1: Promote self-reliance in development and build capacity for self-sustaining development

i. Summary of the CSAR

638. The CSAR defines self-reliance as the ability of nations and their citizens to respond to the requirements and challenges of sustained development using their own capital and human resources. A self-reliant country will choose its own priorities and control the resources necessary to achieve them. It also involves stakeholder participation for setting priorities and implementing them.

639. The CSAR points out that achieving self-reliance depends on three indicators:

- The relationship between the size and growth of public expenditure, the growth of the economy and budget revenues.
- The proportion of government expenditure financed by grants.
- The amount of freedom exercised by the country in its economic relations with the rest of the world.

640. In applying these criteria, the CSAR concludes that Lesotho has shown some measure of self-reliance. This is exhibited by:

- Maintaining relatively low rates of public expenditure, thereby reducing the pressure on domestic revenue.
- Reducing absorption, thereby improving the payments position and reducing the need for external funding.



- Maintaining a small percentage of external financing on total government spending, which averaged 11 per cent between 2001 and 2008.
 - Gaining from remittances from the workers in South Africa, FDI flows and Southern African Customs Union (SACU) receipts.
641. However, the CSAR did note some pitfalls. Although total spending may be low, for example, the country relies heavily on grants and loans to finance investment. Furthermore, investment in the country comes mainly from the private sector, especially from international companies with subsidiaries in Lesotho. Besides, remittances depend on labour conditions for workers in South Africa. The effect of this is that the favourable outcomes may not be sustainable.
642. The CSAR indicates that there were efforts to involve communities in development projects in order to strengthen ownership of the development process. It reports results of citizens' surveys on self-reliance and participation at community and national levels in order to assess the effectiveness of the policy. Only a minority believed that Lesotho was economically self-reliant in the last decade. In another survey to assess the degree of community and individual involvement in planning and implementing national and local development activities, the majority felt that they have become significantly less self-reliant, particularly in economic terms. Regarding the implementation of government initiatives to promote employment-led development, most respondents said that they continued to have little idea about how the national budget was allocated to meet their demands and increase self-reliance. The CSAR comments that, while elected community councils may have positive effects on participation, the new councils might not have made their members more self-reliant and less dependant on decisions and activities promoted by the central government.
643. The CSAR expresses concern that the factors that have helped to increase self-reliance in Lesotho since 2001 are likely to be less effective in the future, thereby presenting the country with very difficult choices to make.
644. The CSAR notes that external financing played an important role supporting, in particular, capital spending. The percentage ranged between 71 per cent and 34 per cent, although it fluctuated from one year to the other and generally fell. Grants averaged about 10 per cent of government revenue in the last two budgets. Given that government's share of generating capital is about 25 per cent, private sector sources account for the greater part. Most come from firms that are branches of much larger companies with head offices outside Lesotho.

Table 6.1: External funding, 2002/2003 to 2008/2009

	02/03	03/04	04/05	05/06	06/07	07/08	08/09
Percentage of external finance/ government spending	16	10	12	7	5	10	11
Percentage of external finance in government capital spending	69	56	71	41	34	40	48

Source: Central Bank of Lesotho (CBL) and Ministry of Finance and Development Planning (MoFDP).



Table 6.2: External debt, 2003 to 2008

	2003	2004	2005	2006	2007	2008
External debts as percentage of GDP	58.9	49.4	45.8	44.0	39.7	47.0
External debts as percentage of exports	114.6	91.0	94.3	87.8	76.7	89.0

Source: CBL and MoFDP.

645. The CSAR conveys government concerns that aid flows are inadequate to support Lesotho's development and that aid disbursements and reporting procedures result in implementation delays. The concerns are greater because assistance comes in the form of project aid, which carries with it many conditions, reporting requirements and numerous supervision missions. These are believed to divert the attention and energy of the country's administrative and managerial resources from achieving results on the ground. Aid should be flexible and better coordinated. Donors, however, contend that the limited flow is attributable to the limited capacity to use external assistance.
646. The CSAR also notes that, although export earnings had increased steeply by a remarkable 23 per cent annually for the past six years, compared with annual increases of 10 per cent for imports, they in fact comprised less than half the imports in volume. The shortfall was largely financed from remittances, SACU receipts, royalties from water exports to South Africa, grants and loans. This underscores the significance of these resources for overall development in Lesotho. Excessive reliance on these resources, however, may not be in the interest of the country in the long term.

ii. Findings of the CRM

647. In examining Lesotho's self-reliance and self-sustaining efforts, cognisance should be taken of its proximity to South Africa and its membership of SACU since its inception in 1910. It should also be appreciated that, because the economy is small and the country landlocked, Lesotho would first seek wider economic opportunities within its immediate geographical environs.
648. Proximity to South Africa brings opportunities as well as risks to Lesotho. The advantages arise from trade, employment opportunities and the use of South Africa's infrastructure (like roads and ports) for transit as well as tapping the financial opportunities of its financial institutions. More directly, the high level of remittances, customs revenues from SACU and royalties from water sales to South Africa is beneficial to Lesotho's development and to improving its balance of payments. The risks relate to the overwhelming reliance of the country on these sources of revenue, as the factors affecting South Africa will have immediate spillover effects on Lesotho's economy. In other words, a slowdown in the economy of South Africa will adversely affect Lesotho's revenues from SACU, the employment of migrant workers in South Africa and possibly investment by South African firms in Lesotho. There are also the risks inherent in the SACU framework, which have resulted in a loss of fiscal discretion to Lesotho. The 2002 revision of the SACU agreement, which established a special secretariat, does provide a measure of protection and the exercise of more direct oversight authority by members, including Lesotho.



649. Another area of vulnerability in Lesotho's economy arises from the imminent end of the preferential arrangements for Lesotho's exports of textiles under AGOA. Opening new markets for Lesotho's exports is therefore necessary. The new trade and technical cooperation agreements with Mercosur, the North American Free Trade Agreement (NAFTA), India and China are steps in the right direction. To maximise the benefits, the export competitiveness gained by trading within AGOA, in particular, should be strengthened further.
650. The CRM acknowledges the importance of remittances for Lesotho and notes that, while the number of mine workers may be falling or levelling off, new sources of remittance from Basotho professionals and entrepreneurs are emerging as credible supplements. The skills they have are important assets for Lesotho.
651. Food security is a deeply entrenched problem in Lesotho. The severity of the problem could be gauged in relation to the fact that most people, particularly the poor, spend between 75 and 80 per cent of their incomes on food. A combination of limited arable land, repeated droughts and poor weather, inadequate agricultural technology and poverty results in large food shortages. Currently, the country imports about 70 per cent of its food needs, thereby overexposing itself to the vagaries of international food prices. In this regard, the CRM is impressed by the government's efforts to address the problem. A national plan for food security was developed in 2005. The aim of the policy is to increase the availability of, and access to, food and to ensure the stability of supply and the effective use of food. The plan incorporates a number of strategies. These are promoting agricultural and good production and providing institutional support.
652. The CRM recognises that it is necessary to diversify the economy effectively by industrialising and modernising agriculture in order to improve sectoral interdependence and to provide a context for the emergence of new activities. The multiplier effect on the economy will be substantial. The CRM supports government's efforts to address the problems of smallholder agriculture in order to increase productivity. In this regard, the block farming initiative should be supported by the necessary financial resources, extension services, marketing institutions and skills upgrading. Block farming was intended to jump-start agricultural commercialisation in recognition of the need to achieve food security. Smallholders should be provided with the incentives to join voluntarily. The government should ensure that the new arrangement will not turn into a system of absentee farmers, dislocating original landowners and rendering some landless or destitute. Livestock development should be an integral component of the rural modernisation programme and part of the agricultural cycle to overcome the problems of overgrazing and to increase the quality of animal products. Modern land management systems should also be introduced.
653. Economic diversification would also call for using areas, where Lesotho has a natural competitive advantage, for activities and resources like tourism and water. The mountain area is best placed to benefit from such projects. The corollary of such an orientation is the sustainable use of natural resources and the environment. The capital investment requirements for using these resources are expected to be huge. FDI inflows can play a very important role in financing and exploring market opportunities. Lesotho should also augment its human resource capacity to support this effort, especially by addressing the paucity of technical personnel in the areas of geological surveys and mapping.



654. The CRM believes that the severity of poverty outlined briefly in the overview, and the fact that Lesotho is among the African countries with the highest income inequality, further reduces its self-reliance status. The richest 20 per cent of the population accounts for 60.1 per cent of total income, while the poorest 20 per cent received only 2.8 per cent of it. Such high levels of skewness in income distribution will militate against achieving self-reliance.
655. Government income distribution efforts therefore paid increasing attention to supporting the weaker groups in society, especially the old, the HIV and AIDS victims, the disabled and the orphans. Some aspects of these efforts are outlined later in this report. The old age pension, for example, covers about 78,000 senior citizens aged 75 years and above. The cost, estimated at about M205 million in 2008/2009, is not a serious burden on the budget. However, the sustainability of the programme will depend critically on future demographic data and on the dynamics of HIV and AIDS.
656. Electricity is the most crucial of all the amenities important to achieving self-reliance. Lesotho currently produces about 85 per cent of its needs. The present gap is met by importing electricity from Eskom of South Africa and ADM of Mozambique. Lesotho will be hard-pressed to address the electricity capacity issue if it is to be self-reliant and meet its future demands.
657. The CRM underscores the CSAR's concerns that the proportion of capital spending that is financed through foreign aid, estimated to be over 40 per cent recently, is critically high, although it is falling. Overdependence on aid is inimical to development and could impair Lesotho's competitiveness. It should be borne in mind, however, that the high percentage is a direct result of the fact that the level of capital spending itself may not be high enough to support socioeconomic development. Lesotho may reduce its aid dependence in the long term by encouraging greater FDI inflows. However, external aid is helping to address the particular challenges posed by HIV, AIDS and drought in the interim. Conditionality and the belated nature of current aid hamper the speedy use of resources. Aid flows should be flexible, predictable and better coordinated. The government of Lesotho complained that aid had not attracted sufficient attention to strengthen the capacity of the central government institutions of planning and accountability. Training has lagged seriously. Direct support to human resources development falls below expectations.
658. The CRM notes that the negative ramifications of the current international financial crisis will not spare Lesotho. Although the impact has not yet been fully felt in the country, it is expected to be severe once it hits. The slowdown in the South African economy, and its adverse impact on SACU revenues and remittances, will be amplified by the possible loss of export-import financing currently secured through the network of banks in Hong Kong, Singapore and Taiwan. As a result, the country's foreign trade will be seriously constrained, compounding the decline in textile exports to the USA. The first- and second-round effects of these developments on the economy will be far-reaching.
659. The CRM believes that achieving a credible measure of self-reliance and self-sustaining development is a long-term undertaking. It can only be effectively addressed by developing a coherent and realistic strategy, because the conditions in Lesotho are not sufficiently conducive and sustainable. It should also be premised on the understanding that the current physical, technological and human resource constraints are not insurmountable or unmanageable. To this end, Lesotho should improve its productive and exporting capacity significantly.



660. Lesotho should reposition itself regionally and globally by exploiting its current regional integration links and expanding its international economic relations to take full advantage of the capital and trade opportunities that come with globalisation. However, the country should continue to strengthen its economic ties with its SACU and SADC partners.
661. The competitiveness of Lesotho's products and exports should be at the centre of the strategy. Lesotho could learn from the development record of the newly industrialising countries, and indeed from its own experience with textile exports to the USA, to create a competitive economy. Establishing a competitive, knowledge-based economy is a national challenge. The creativity and commitment of the people should be invoked. The pace of achieving this objective will depend on the dynamism of the entrepreneurs, the technological literacy of the labour force, the capacity for continuous innovation and discipline, the establishment of competition-orientated change institutions and on good governance. Leaders should provide the binding glue.
662. The country should start with the vertical development of its educational institutions and improving the quality of education, together with exploiting the potential of nontraditional growth sectors. There is ample scope for developing export-orientated agro-industries by using available raw materials. The improved internal and external economic interdependence will reduce the possible risks of overexposure to external shocks. Lesotho should take advantage of the promise of the new opportunity.

iii. Recommendations

663. The APR Panel recommends that Lesotho:
- Broaden its economic base by diversifying and modernising agriculture and by exploiting activities and resources where the country has natural competitive advantage, like tourism and water. (*Government of Lesotho, private sector, development partners*)
 - Regularise and increase the use of public opinion surveys to assess the effectiveness of development programmes and policies and to obtain feedback. (*Government of Lesotho*)
 - Create a knowledge-based and competition-orientated economy. (*Government of Lesotho, private sector*)
 - Conduct awareness campaigns and workshops on the need for the country to be more economically competitive. (*Government of Lesotho*)
 - Encourage Sothos living in South Africa to invest in Lesotho. (*Government of Lesotho*)
 - Increase the level of investment in human capital and institutional capacity building. (*Government of Lesotho*)
 - Strengthen infrastructure to support productive industries and sectors. (*Government of Lesotho, private sector, development partners*)
 - Create an enabling environment for the private sector and attract FDI. (*Government of Lesotho, private sector*)



Objective 2: Accelerate socioeconomic development in order to achieve sustainable development and eradicate poverty

i. Summary of the CSAR

Policies to accelerate socioeconomic development

664. The CSAR outlines the efforts made to accelerate socioeconomic development. They include: developing the Vision 2020 framework; developing the Poverty Reduction Strategy (PRS); developing the Public Sector Improvement and Reform Programme (PSIRP); establishing social welfare services like an old age pension scheme; introducing child welfare and education for the disabled and the destitute; and establishing a Lesotho Fund for Community Development (LFCD). There are also public works schemes and food aid programmes.
665. Vision 2020 outlines the level of development that the Basotho hope to achieve by 2020. The pillars of the vision for Lesotho are: a stable democracy; a united and prosperous nation at peace with itself and its neighbours; a healthy and well-developed human resource base; a strong economy; a well-managed environment; and a well-established technology. The vision envisages that Lesotho will retain its political and social independence based on its strengths as a nation where over 95 per cent of its citizens share a common ancestry. The result will be a self-reliant society that proudly shares the common values of justice, mutual trust, democracy, accountability and transparency. Together they cement and nourish the heritage of a common history, one religion and an independent nation.
666. The PRS is based on a three-year consultative and participatory process involving communities and stakeholders nationwide. It outlines national priorities and strategies to reduce poverty and promote equity-based economic growth. The priorities are: creating employment; improving food security; developing infrastructure; deepening democracy, governance, safety and security; improving the quality of, and access to, health services; improving the quality of, and access to, education; managing and conserving the environment; and improving public service delivery. The most important crosscutting national challenges include addressing HIV and AIDS, gender inequalities, and issues related to children and the youth. The PSIRP drives the implementation of the PRS. It focuses on improving financial management and accountability, service delivery through decentralisation, and public service management.
667. The social welfare programmes provide public assistance for individuals, families and communities that are unable to meet their basic needs. The old age pension programme is a cash transfer programme that targets those aged 70 years and above. Those who qualify were paid M150 per month from 2004 to early 2007, when the amount was increased to M200 per month. This programme is administered by the MoFDP, where a special independent unit has been established with the sole responsibility of administering it. It is financed by general taxes and had annual overall expenditures of M45 million, M126 million and M135 million for 2004/2005, 2005/2006 and 2006/2007 respectively. According to the CSAR's citizen survey, most people felt that the old age pension is playing a major role in reducing poverty as well as dependence on other household members by old people.



668. The LFCD was established by the government in 2000 with funding from royalties from the Lesotho Highlands Water Project (LHWP). Rural communities are given training to empower them to plan and execute their development projects. The programme therefore creates employment opportunities in rural areas and helps to improve rural life. The CSAR observes that, despite these interventions, far too many people still depend on food aid and about one-third of them are children under the age of five. The targeted food aid requirements for 2007 amount to 10.8 million tonnes.
669. With regard to employment, access to the United States (US) market, under AGOA, has made Lesotho the single largest beneficiary. Employment in the textile industries increased, but this has now declined following the current global economic depression. The AGOA agreement has also almost run its course. Most textile workers are internal migrants. Of these, over 85 per cent are semiliterate females who have left their families in the rural areas. Unemployment is gradually increasing in Lesotho, particularly among university and technical school graduates. It is now estimated to be about 40 per cent.
670. With regard to sustainable development, the CSAR reviews the issues that may contribute to the unsustainable use of natural resources and to environmental degradation. These include: water and air pollution; widespread urban expansion; uncontrolled mining operations; recurrent drought and desertification; land degradation through soil erosion; loss of biodiversity; overstocking and inappropriate cropping systems; overdependence on traditional fuel sources to meet the energy needs of the poor; inadequate environmental awareness; and inadequate capacity to address environmental issues.
671. The CSAR further reviews the actions taken by the government, in terms of legislation and policies, aimed at environmental protection. The CSAR notes that the mandate of the government, to protect the natural and cultural environment, is derived from the constitution of Lesotho. This is why the government adhered to the internationally accepted principles of the 1972 Stockholm Declaration and the 1992 Rio Declaration, as adopted at UN conferences. It also signed a number of international environmental conventions. The government further endorsed and adhered to regionally accepted principles contained in the SADC Policy and Strategy for Environment and Sustainable Development and the African Ministerial Conference on the Environment (AMCEN).
672. The CSAR recalls the major measures taken by the government to address sustainable development and other environmental issues. These include:
- Developing the National Environmental Action Plan (NEAP) in 1989.
 - Establishing the small National Environment Secretariat (NES) within the Office of the Prime Minister in 1994.
 - Developing Lesotho's Agenda 21 Action Plan in 1995.
 - Adopting the National Environmental Policy in 1998 to address Lesotho's national development priorities.
 - Adopting the Environment Act in 2001 to provide the framework for managing the environment and natural resources in Lesotho.

The CSAR notes that the Lesotho environment authority has not yet been established. It was to help implement the Environment Act. Nevertheless, some notable achievements are worth mentioning.



These include: the Environmental Impact Assessment Guidelines; producing the State of the Environment and Biodiversity Reports; preparing the Water Quality Guidelines and the Industrial Effluent Standards; and preparing the prefeasibility studies on solid waste management.

Progress in achieving the MDGs

673. According to the citizens' survey reported in the CSAR, experts are not optimistic that the MDGs will be achieved by 2015. Only 19 per cent of the experts were optimistic, 41 per cent were barely optimistic and 40 per cent were actually pessimistic on the issue. Further probing on individual MDGs revealed that the responses were the same for all the MDGs, except for those of achieving universal primary education and promoting gender equality and empowerment of women. Here all the experts interviewed believed that the two MDGs will be achieved. Lesotho's progress towards achieving the MDGs was assessed in the Lesotho MDG report of 2004. The findings are summarised in table 6.3 below.

Table 6.3: Lesotho's rating of the prospects of achieving the MDGs at a glance

Goal	Target	Will the goal be met? (probably, potentially, unlikely, no data)	State of the supportive environment (strong, fair, weak but improving, weak)
Combat HIV, AIDS and tuberculosis (TB).	Halt and begin to reverse the spread of HIV by 2015.	Potentially	Strong
Eradicate extreme poverty and hunger.	Halve, between 1990 and 2015, the proportion of people below the national poverty line.	Potentially	Fair
	Halve, between 1990 and 2015, the proportion of people who suffer from extreme hunger.	Unlikely	Fair
Achieve universal primary education.	Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.	Probably	Strong
Promote gender equality and empower women.	Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education by 2015.	Probably	Strong



Goal	Target	Will the goal be met? (probably, potentially, unlikely, no data)	State of the supportive environment (strong, fair, weak but improving, weak)
Reduce child mortality.	Reduce by two-thirds, between 1990 and 2015, the under-5 mortality rate.	Potentially	Weak
Improve maternal health.	Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio.	Unlikely	Weak
Ensure environmental sustainability.	Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources.	Potentially	Weak but improving
	Halve, by 2015, the proportion of people without sustainable access to safe drinking water.	Potentially	Fair
	Halve, by 2015, the proportion of people without sustainable access to sanitation.	Potentially	Weak but improving
Develop a global partnership for development.	Further develop an open, rule-based, nondiscriminatory trading and financial system further.	Probably	Weak but improving

Note: Determining whether the goal or target will be met is based on a linear extrapolation of current trends. In determining the state of the supportive environment, five basic areas are considered:

- 1) Does the government have a policy in the area?
- 2) Is there a coordinating body?
- 3) Does it have the capacity to implement?
- 4) Is funding available?
- 5) Is the goal or target a government of Lesotho priority?

Source: National Human Development Report (NHDR) 2006 in CSAR (2008).



ii. Findings of the CRM

Policies to accelerate socioeconomic development

674. Lesotho's policies to accelerate socioeconomic development are thoroughly covered in the overview section and the CSAR. The CRM finds the Draft Growth Strategy very comprehensive and particularly strong in identifying potential growth sectors. These include manufacturing, tourism, agriculture and mining. As it is still a draft undergoing broad consultation, implementation has not begun. In the interim, Lesotho's development plans are linked to an interim Poverty Reduction Strategy Paper (PRSP) and sectoral policies and strategies. These include the Gender Policy, Social Welfare Policy and National AIDS Strategic Plan.
675. The overarching problem is that of poor implementation of policies. This sentiment was emphasised by both state and nonstate stakeholders during the CRM. The reasons provided for inadequate implementation were: limited human and financial capacity; frequent changes in management, which stalls progress; behavioural or attitudinal factors that are not conducive to productivity; lack of proper planning; nepotism; lack of budgeting according to available resources; and lack of monitoring and implementation mechanisms. At the local government level, the absence of a well-defined division of responsibilities between local government and traditional chiefs is the main reason for poor implementation and poor service delivery.
676. Endemic poverty and inequality continue to be the plight of most people, most of whom perceive poverty to have worsened over the past five years despite some improvements in per capita GDP. Some stakeholders felt strongly that the economic gains are shared by a few individuals, while most remain poor. The poverty situation is compounded by high unemployment rates. These have been exacerbated by extensive retrenchments of the mine workers in South Africa, who return to Lesotho to find no viable employment opportunities. The Ministry of Employment and Labour confirmed that there are no mechanisms in place for absorbing retrenched mine workers. However, the National Union of Mine Workers has established the Mine Workers Development Agency. It provides training in skills like fruit juice making, farming and gardening. The agency is funded by mining companies like De Beers and Ashanti. Stakeholders nevertheless voiced concerns about the lack of employment opportunities outside of short-term contractual labour through public works schemes. Moreover, Basotho residents outside of Maseru drew the attention of the CRM emphatically to the absence of industries that would go a long way in creating employment and improving the livelihoods of communities.
677. While there is no current explicit or comprehensive strategy for addressing unemployment, the government has a few initiatives in place to train the youth and the disabled in order to help them start their own businesses. There is the Skills and Training Centre, based in Mohale's Hoek, which trains youths between 18 and 35 years in skills such as sewing, plumbing, bricklaying and panel beating for a period of three months. There are boarding facilities, so the youths are brought in from all over the country. Unfortunately, capital is not provided after the training to enable the trainees to set up their own businesses, and the ministry has not been able to follow up on the impact of the training. The ILO-sponsored 'start your own business' initiative is another scheme that tries to address youth unemployment. It has been operating for two years and provides capital at the end of the training. The CRM was also not able to assess the impact of this initiative.



678. The short-term training and employment schemes may indeed provide some relief to communities in the short term, but structural unemployment will have to be addressed systematically and comprehensively. The growth strategy, once finalised and implemented, may begin to address these issues. However, the Ministry of Employment and Labour will also need adequate capacity to implement and monitor programmes. The ministry may not be short of resources, but it suffers from inadequate absorptive capacity. It is necessary to strengthen accountability mechanisms to ensure that the ministry meets its goals. The ministry also relies on the Bureau of Statistics (BOS) to furnish it with labour force data. However, BOS is also heavily constrained and has not been able to provide the report of the labour force survey undertaken in 2008.
679. Another mechanism targeted at increasing employment in rural areas is the LFCF that the CSAR refers to. However, stakeholders claimed that there was no transparency in using funds and that the scheme was being subjected to political patronage. The CRM learned that the scheme has recently been discontinued by the government.
680. In recognising the need to revive the agricultural sector, the government tried to introduce some form of subsidy to farmers and a collective commercial farming method, known as block farming (referred to earlier in the chapter), to improve self-reliance. The latter strategy was designed to foster commercialised farming, as opposed to subsistence farming, by encouraging individual farmers to combine their plots and cultivate homogenous crops. This would enable farmers to benefit from economies of scale and access to finance and so produce relatively higher yields. However, these initiatives are being resisted by farmers, mainly because they claim that they were not adequately consulted. Interestingly, many stakeholders agreed that the block farming method would be beneficial only if the government would grant them meaningful consultation rather than using a top-down approach. It is also important to note that block farming has not been successful this year (2009) because of drought.
681. The CRM further learned from state stakeholders that students and workers are being encouraged to form cooperatives and are being trained in business management. Over 2,000 cooperatives have been established, although many are inactive. However, there is a pervasive culture of not saving or making sound investments. These limit the potential impact of cooperatives.
682. The tourism sector is one of the sectors identified by Lesotho as a potential growth sector. However, it was evident from the review that the sector continues to be neglected. An official from the Ministry of Tourism, Environment and Culture confirmed that the sector is significantly underresourced. Aside from an initiative by the private sector to renovate the leading hotel in Lesotho (the Lesotho Sun Hotel), there are no clear plans or strategies in place to attract tourists to Lesotho in the light of the 2010 Soccer World Cup. This will be a significant loss of revenue to Lesotho if no action is taken, particularly with the likelihood of an overflow of tourists visiting South Africa during the event.
683. The CRM was informed that social welfare schemes, such as an old age pension scheme and food aid, are good initiatives that are much needed and appreciated by various segments of the population. As a result, the government has decided to increase the monthly pension from M200 a month to M300 a month, effective from 1 April 2009. Stakeholders, however, felt that, given the low life expectancy which is manifested in the deaths of many senior citizens before they can



benefit from the pension, the scheme should benefit citizens of 60 years of age or younger. This revision would also be consistent with the government's own pension scheme for civil servants who retire at 60. The fiscal obligations may, however, rise considerably.

684. There were repeated concerns about a lack of fairness or transparency in distributing food aid. Some stakeholders felt that politicians were distributing aid to members of their parties or to party sympathisers. Others mentioned that there have been instances where food aid was not distributed in communities and ended up being thrown away, while there were people starving in the same communities. The CRM witnessed the large numbers of people who congregate for the distribution of food aid. It is, therefore, one of the important initiatives to alleviate poverty and its effectiveness should not be compromised by inefficiencies or lack of transparency.
685. With regard to sustainable development, the CRM learned from environmental impact assessment (EIA) studies that assessments of major hydro development schemes have become mandatory. This was the case with the LHWP Phase 1B (Phase 1A was completed in 1992 before financing institutions regarded the EIA studies as important) and the Metolong Dam Project, which is being prepared. However, mining and other industrial projects are still not required to prepare EIAs and associated measures.
686. The Maloti Drakensberg Transfrontier Project (MDTP) is an example of good practice. It is a collaborative initiative between South Africa and Lesotho to protect the exceptional biodiversity of the Drakensberg and Maloti mountains through conservation, sustainable resource use, land use and development planning. Excessive livestock grazing, crop cultivation on steep slopes, uncontrolled burning, alien invasive species and human encroachment threaten these assets. The project is financed by the Global Environment Facility (GEF).
687. Finally, the CRM was informed about the Environment Act (2009) that is being passed to replace the 2001 Act. The Department of Environment will implement it. The new Act differs from the previous one in that it provides for line ministries to collaborate with the ministry responsible for the environment so the environmental concerns can be streamlined in their plans and projects. It also encompasses objectives of the Rotterdam Convention related to chemicals in international trade.

Progress in achieving the MDGs

688. Table 6.4 shows the progress being made regarding the MDGs. It shows that real progress is being made to achieve universal education (primary completion rates), gender equality and environmental sustainability. However, it also shows that Lesotho is seriously lagging behind in achieving the goals in respect of poverty, child mortality, maternal mortality and TB.



Table 6.4: MDG indicators

Goal	1995	2000	2007
EXTREME POVERTY AND HUNGER: Eradicate extreme poverty and hunger.			
• Malnutrition prevalence (percentage of children under 5)	--	15	17
• Poverty Headcount Ratio (percentage of population under the poverty line)	49	68	--
UNIVERSAL PRIMARY EDUCATION: Achieve universal primary education by 2015.			
• Primary Completion Rate (percentage of relevant age group)	63	60	78
• Total enrolment, primary (net percentage)	--	78	75
GENDER EQUALITY: Promote gender equality and empower women.			
• Proportion of seats held by women in national parliament (percentage)	--	4	24
• Ratio of female to male primary enrolments in tertiary education	--	153	119
• Ratio of female to male enrolments in primary schools	--	104	100
• Ratio of female to male enrolments in secondary schools	--	131	127
CHILD MORTALITY: Reduce under-5 mortality and infant mortality by two-thirds by 2015 (current levels).			
• Immunisation, measles (percentage of children aged 12 to 23 months)	83	74	85
• Mortality rate, infant (per 1,000 live births)	73	86	102
• Mortality rate, under 5 (per 1,000 births)	91	108	132
MATERNAL HEALTH: Reduce maternal mortality ratio by three-quarters by 2015.			
• Births attended by skilled health staff (percentage of total)	50	60	--
• Pregnant women receiving prenatal care (percentage)	88	85	--
COMBAT HIV, AIDS AND MALARIA: Stop and reverse the spread of HIV and AIDS, TB and malaria by 2015.			
• Incidence of TB (per 100,000 people)	323	553	635



Goal	1995	2000	2007
• Prevalence of HIV, female (percentage of population aged 15 to 24)	--	--	14.9
• Prevalence of HIV, total (percentage of population aged 15 to 24)	--	--	23
ENVIRONMENTAL SUSTAINABILITY: Reverse loss of environmental resources by 2015.			
• Population with access to improved water source (percentage)	77	77	78
• Population with access to improved sanitation (percentage)	33	34	36

Source: World Bank (2009). World Development Indicators.

689. In discussing the MDGs, stakeholders in Lesotho were not optimistic that most of the goals will be met by 2015. They were mostly concerned about poverty trends, which they feel are showing an increase. A few also expressed concern about inadequate access to piped water and sanitation as well as about soil erosion. They did, however, note that good progress is being made to curb the spread of HIV, as the awareness campaign, Know Your Status (KYS), has been widely popularised.

iii. Recommendations

690. The APR Panel recommends that Lesotho:

- Accelerate the process of finalising the Draft Growth Strategy, which also needs to be popularised, as there is a lack of awareness. (*Government of Lesotho*)
- Introduce accountability mechanisms to address the problems of poor implementation. (*Government of Lesotho*)
- Introduces mechanisms for broad-based participation to ensure stakeholder support for future development policies. (*Government of Lesotho, civil society*)
- Implement the MDGs vigorously. The government may consider establishing a unit within the MoFDP to monitor progress. (*Government of Lesotho, development partners*)
- Improve the capacity of local governments and strengthen partnerships with NGOs in order to distribute food aid effectively. (*Government of Lesotho, civil society*)
- Make EIAs mandatory for any proposed energy and mineral resource developments. (*Government of Lesotho*)
- Improve the working relationships between the ministry responsible for environmental affairs, the Department of Environment and line ministries, like the ministries responsible for constructing roads, for licensing industrial projects and for mining operations. (*Sector ministries*)



- Address the issue of protecting the catchment areas of hydro dam reservoirs through afforestation and reforestation programmes. (*Sector ministries*)
- Address the issue of the sustainable supply of biomass fuels through agro-forestry, particularly in lowland areas. (*Sector ministries*)

Objective 3: Strengthen policies, delivery mechanisms and outcomes in key social development areas, including education for all, and HIV and AIDS and other communicable diseases

i. Summary of the CSAR

Education

691. According to the CSAR, Vision 2020 provides a national framework under which the education sector operates and links closely with the PRS. The government is committed to providing basic education (section 28 of the Lesotho constitution) and to ensuring that education is a right for every child. The government is adopting appropriate policies to ensure that boys and girls may choose appropriate careers without restriction. It has made efforts to work through a sector-wide approach under the second Education Sector Development Programme (ESDP II) and the Sector-Wide Strategic Plan in order to ensure a combined effort.
692. To promote equal opportunities, the government initiated free primary education (FPE) in 1999 and started implementing it in 2000 by gradually abolishing school fees over a seven-year period, beginning with standard 1. To support the FPE programme, 184 new schools have been constructed, leading to 1,105 new classrooms. More than one million textbooks and other teaching materials were supplied to 1,300 schools. The annual budgetary allocation to education has been increasing as a percentage of the national budget and in real terms. The 2004/2005 and 2007/2008 budget speeches by the minister of finance and development planning show that education's share of the recurring budget rose from 18 per cent in 2003/2004, to 22 per cent in 2004/2005 and to 26 per cent for the 2007/2008 fiscal year.
693. The CSAR reports that, although enrolment in primary schools fell from 76 per cent to 51 per cent in 1999, it increased to 69 per cent in 2000, to 85 per cent in 2003 and then dropped to 83 per cent in 2005. Enrolment figures for girls are generally higher than those for boys. Of the secondary school age population of 13- to 17-year-olds, estimated to be approximately 287,338 in 2004, only 30 per cent were in secondary schools. Of these, 56 per cent were girls and 44 per cent boys. At tertiary level, the enrolment of females at the National University of Lesotho (NUL) is also marginally higher than that of their male peers. According to the NUL's academic office, enrolment was 51 per cent for females and 49 per cent for males in the 2000/2001 academic year. In the 2006/2007 academic year, it stood at 52 per cent for females and 48 per cent for males.
694. There were eight technical and vocational training institutions in Lesotho in 2003. Of these, one was private, six were owned by churches and one was owned by government. In 2004, the number



of institutions increased to 11. However, enrolment declined from 1,837 students in 2003 to 1,716 in 2004.

695. The Basotho were asked in the citizen survey about their views on FPE. When asked whether FPE has improved literacy since its inception in 2000, 85 per cent of those interviewed answered in the affirmative, 13 per cent answered that it has not and only 2 per cent did not know. Responding to the question about extending free education to secondary level, 88 per cent of the respondents stated that they would be happy with free secondary education. Very few (11 per cent) of those interviewed did not like free secondary education. Of the respondents who believed FPE improved literacy and hoped free education would be extended to secondary level, the majority were in the rural areas (77 per cent believed that FPE improved literacy and 88 per cent of the respondents hoped that free education would be extended to secondary level).
696. According to the CSAR, the challenges in the education system are that:
- Boys drop out of school to search for food and work.
 - Facilities like desks, chairs, toilets and water in primary schools have not matched the increase in enrolment. According to the 2004 education statistical bulletin, only about 51 per cent of primary school pupils sat at desks. The proportion of pupils without both desks and chairs rose from about 17 per cent in 1999 to about a quarter in 2004.
 - The curricula do not match national needs.
 - There are unqualified and underqualified teachers in the system.

Health

697. In Lesotho, access to health services is through collaboration between four institutions. These are the government of Lesotho, through the Ministry of Health and Social Welfare (MoHSW), the Christian Health Association of Lesotho (CHAL), the private sector and NGOs. The government of Lesotho, through the MoHSW, has begun reforms targeted at reducing morbidity and mortality, at inequalities in access to health and social welfare services, and at improving the health of the people. The MoHSW assessed the staffing situation, developed a 10-year infrastructure and equipment plan, drafted the National Health and Social Welfare Policy (2004) and developed a 10-year, three-phased health sector reform programme for the period 2000 to 2009. The reforms seek to achieve a sustained increase in access to quality preventive, curative and rehabilitative health services throughout the country.
698. With regard to the supply of drugs, the MoHSW developed the essential health services package in 2005. However, it is reported that 40 per cent of outpatient department visitors at government hospitals in 2005/2006 did not get all their prescribed drugs (MoHSW 2006). In responding to these challenges, the expansion of the warehouse and the establishment of a medicine information system, aimed at improving storage capacity and drug quantification, were begun at the National Drug Service Organisation (NDSO) in 2006.
699. The government, through the MoHSW, has begun reforms targeted at reducing morbidity and mortality, addressing the inequalities in access to health and social welfare services, and improving



the health of the people. The reforms hope to achieve a sustained increase in the access to quality preventive, curative and rehabilitative health services throughout the country.

700. Infant mortality declined from 72 per 1,000 live births in 1991 to 66 in 1999, and increased to 91 in 2004. During the same period, the under-5 mortality rate increased by 13 per cent from 100 to 113 per 1,000 live births. Maternal mortality, which is considered a good indicator of the status of the health system, increased sharply from 419 per 100,000 live births in 2001 to 762 in 2004. According to the 2003 Epidemiological Bulletin of the MoHSW, the major causes of illnesses and deaths are HIV, AIDS and TB (either alone or in combination), diarrhoea, meningitis, and chronic debilitating diseases like hypertension, obesity and diabetes.
701. Challenges to the health sector include:
- Access to health-care services. Many people in Lesotho (38 per cent) still travel for more than an hour to reach the nearest health facility. The situation is more serious in the rural mountains, where 78 per cent of people travel more than an hour to the nearest health facility.
 - Training and maintaining experts in the health sector and addressing the brain drain.
 - Improving access to, and the quality of, reproductive health services.

HIV and AIDS

702. The CSAR reports that, since the first HIV case was reported in the remote mountain district of Mokhotlong in 1986, the incidence of this pandemic increased sharply from around 4 per cent in 1993 to 25 per cent in 1999 and then to an estimated 31 per cent in 2002. According to the 2004 Joint United Nations Programme on HIV/AIDS (UNAIDS) report, Lesotho recorded the third-highest HIV and AIDS prevalence rate in the whole world, after Botswana and Swaziland, in 2003. It ranged between 28.9 per cent and 31.7 per cent. There were positive developments in 2005. The 2004 demographic and health survey (DHS) report shows that the adult HIV incidence rate declined from 31 per cent in 2000 to 23.2 per cent in 2004. Of these, 26 per cent were women and 19 per cent men.
703. Sentinel surveillance surveys were carried out in the six sites of Maseru, Leribe, Mafeteng, Quthing, Maluti and Mokhotlong. The data showed an upward trend in the proportion of individuals testing HIV-positive, especially in the 20 to 39 age groups and that HIV and AIDS is disproportionately concentrated in urban areas. In the Maseru district, for example, the HIV prevalence among women in antenatal care clinics increased from 5.5 per cent in 1991 to 37.2 per cent in 2005, while, in Quthing, figures showed increases of 0.7 per cent and 22.6 per cent respectively. Of the total number of adults living with HIV in 2005, it was estimated that 41 per cent were male and 57 per cent were female.
704. The government considers HIV and AIDS as a priority in the national human and economic development agenda. The National HIV and AIDS Strategic Plan (2000) aims to achieve broad development objectives that include:
- Making all citizens well informed about HIV and AIDS and giving them opportunities to learn their status.



- Keeping those who are not yet infected free from infection.
 - Assisting those who are infected to live longer, productive and better lives.
 - Mainstreaming HIV and AIDS in all policies and programmes such as Vision 2020, the PRS, the MDGs, and in plans and budgets.
705. The government, through the MoHSW, launched postexposure prophylaxis (PEP) guidelines for health-care workers and victims of rape in 2002. These were disseminated to all health facilities. The National AIDS Commission (NAC) was set up in 2003. The prevention of mother-to-child transmission programme was launched early in the same year. The government also launched the KYS campaign in order to encourage all males and females above the age of 12 in Lesotho to learn their HIV status through confidential HIV testing and counselling. The antiretroviral therapy (ART) plan for Lesotho was launched in 2004 with the assistance of the World Health Organization (WHO).

ii. Findings of the CRM

Education

706. Stakeholders voiced general concerns about the low school enrolments at all levels in Lesotho. They credited the FPE programme with helping to increase enrolment at the primary level. However, enrolment rates are still below standard in preprimary, secondary and tertiary institutions. Table 6.5 below shows the gross enrolment rates (GER) for preprimary education.

Table 6.5: GER for preprimary schools (1999 to 2006)

		1999	2002	2006
GER (per cent)	Male	20	27	13
	Female	22	25	23
	Total	21	26	18

Source: United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Statistics (2009).²³

707. Enrolment for early childhood education is apparently very low in Lesotho. Only about 18 per cent of children are enrolled in preprimary schools. More importantly, the rates appear to have dropped from 26 per cent to 18 per cent since 2002. Explanations vary from economic hardships to inadequate schools to cater for young children. The Ministry of Education and Training (MoET), however, informed the CRM that it is in the process of introducing 'reception classes' to primary schools to cater for preprimary school children.

²³ Source: http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=4260



708. While FPE is appreciated, it is clear from table 6.5 below that not all parents are taking advantage of it. Some still prefer to have their children, especially boys, tend to the cattle and assist with domestic duties. It was observed that there is currently no law in Lesotho that compels parents to send their children to primary schools. Stakeholders were, in fact, unanimous in their support for having such a law introduced and enforced by penalties for lack of compliance. According to the MoET, the Education Amendment Bill is at the level of Parliament. The CRM was informed that enactment is expected by the end of April 2009. Table 6.6 below shows the enrolment rates for primary education.

Table 6.6: GER and net enrolment rates (NER) for primary schools (1999 to 2006)

		1999	2002	2006
GER (per cent)	Male	98	114	115
	Female	106	116	114
	Total	102	115	114
NER (per cent)	Male	54	75	71
	Female	61	81	74
	Total	57	78	72

Source: UNESCO Institute for Statistics (2009).

709. Table 6.6 shows, firstly, that the GER exceeds the NER by a relatively large margin. This means that there are many children outside the official primary school age range enrolled in primary schools.²⁴ Secondly, it shows that primary enrolments have been increasing over time for both males and females, which is very positive. To the government's credit, providing meals in primary schools has provided a much-needed incentive for parents to send their children to school. The CRM learned that two hot meals are actually provided in primary schools in the highlands and one meal in the lowlands. The feeding scheme further provides employment opportunities for communities to provide catering services.

710. On the whole, stakeholders were not aware of any existing programmes intended to address educational quality. They felt that teachers were not adequately trained and that the curriculum was not relevant to the needs of the labour market. The MoET confirmed that about 26 per cent of teachers are not qualified and a higher number have inadequate qualifications. However, it informed the CRM that a new curriculum has been developed and would soon be introduced. It also indicated that other measures to address quality include: reducing the number of subjects taught in schools from 14 to six; redirecting the focus from a primary school-leaving examination to a formative process of education; the plan to retrain teachers; providing incentives for teachers to teach in the highlands; introducing a performance management system; and various measures

²⁴ NER = Total enrolled children in the official school age group ÷ total number of children in the official school age group.
GER = Enrolled children of all ages ÷ total number of children in the official school age group.



intended to reduce grade 1 repetition rates from 25 per cent to 5 per cent by 2012. The government hopes that the extensive reforms will improve primary education and have a positive spillover in secondary education, which, as table 6.7 below shows, currently suffers from very low enrolment rates.

Table 6.7: GER and NER for secondary schools (1999 to 2006)

		1999	2002	2006
GER (per cent)	Male	26	29	33
	Female	35	37	41
	Total	31	33	37
NER (per cent)	Male	13	17	19
	Female	22	26	29
	Total	17	21	24

Source: UNESCO Institute for Statistics (2009).

711. The gross enrolment ratio for secondary schools is only about 37 per cent, which is, in fact, lower for boys.²⁵ High costs are the primary reasons given for the low enrolment rates. Furthermore, there are extensive dropout rates, which are often attributed to teenage pregnancies, HIV and AIDS. Despite the constitutional right to education, many schools have turned away pupils who have tried to re-enrol in schools after having a child. Incidentally, the new Education Amendment Bill is very clear that these actions are illegal. It is hoped that the enactment of this legislation will curb these practices. It is important to highlight that the retrenchments of mine workers and the consequent loss of household income have exacerbated low enrolment and dropout rates as pupils leave school to support their families financially.
712. The government has tried to introduce distance education learning programmes as an alternative to formal schooling. The government asserts that most pupils who take advantage of these programmes are boys. The government further hopes that the plans to construct new classrooms will increase secondary school enrolment. Other measures to improve secondary education include awarding bursaries to orphans and vulnerable children (OVC). Their status as disadvantaged groups is normally verified through the chiefs in their districts. Finally, a textbook rental scheme is being implemented in about 90 per cent of public schools, whereby students are provided with textbooks for the year at an annual fee of M220. Although the MoET has not been able to assess its impact, there is some indication that it is working well in curbing dropout rates and reducing the costs to parents.
713. The enrolment rates for tertiary institutions are shown in table 6.8 below. It clearly shows that only about 4 per cent of people of tertiary age attend universities and other tertiary institutions. There have also been minimal improvements over the years.

²⁵ Gender considerations are discussed further under objective 5.



Table 6.8: GER for tertiary institutions (1999 to 2006)

GER (per cent)		1999	2002	2006
	Male	2	2	3
	Female	3	3	4
	Total	2	2	4

Source: UNESCO Institute for Statistics (2009).

714. The relatively few individuals who pursue tertiary studies are faced with the added challenge of securing jobs afterwards. Both the Ministry of Employment and Labour and the MoET confirmed that there are many unemployed university graduates in Lesotho. This is partly because the curriculum is not designed to meet the needs of the labour market and because there are few jobs. There is a Public Service Placement Programme whereby graduates seeking jobs are entered on a database and are placed in jobs on a first-come, first-serve basis. However, the unintended consequence is one of a high turnover rate, as graduates may not find the jobs suitable or interesting.
715. Some stakeholders informed the CRM that Lesotho currently does not have any postgraduate training programmes. This was disputed by the MoET, which maintains that there are a number of masters' and even doctoral programmes offered by the NUL. However, the programmes are not extensive and individuals interested in pursuing a variety of advanced university courses still go to South African universities or universities abroad. The CRM learned that the National Manpower Development Secretariat provides scholarships for tertiary students and that a National Manpower Development Council has recently been inaugurated to research the set of skills needed in Lesotho. This will assist the MoET in tailoring the curriculum to the needs of the labour market.
716. Finally, adult literacy in Lesotho is often quoted as being above 80 per cent. This would make it among the highest in Africa. However, the high level of literacy did not tally with the repeated concerns about low and unskilled labour and pervasive human resource capacity constraints in the country. Information obtained from the Common Country Assessment (CCA)²⁶ for Lesotho further cautions against using the adult literacy statistic. The CCA report asserts that the literacy rate is not based on an objective criterion. Rather, it is based on a simple question in the demographic survey ("Can you read and write?"). It could therefore be overestimated. This means that education and literacy continue to be a source of concern.

Health

717. Lesotho's health care comprises curative, preventative and rehabilitative services. There are 22 hospitals, 18 of which are general hospitals (some owned by the government and some by CHAL). Two are specialist hospitals for leprosy and mental conditions, one is a military hospital and one is privately owned. There are over 170 health centres, most of which are owned by CHAL and staffed by a network of about 7,000 volunteer health workers, including traditional birth attendants.²⁷

²⁶ Source: http://www.undp.org.ls/documents/CCA_Final_Document_2005_small.pdf .

²⁷ Source: <http://www.lesotho.gov.ls/about/health.php> and MoHSW (2009) National Reproductive Health Policy.



These health centres cater for basic curative services, child immunisations, family planning, and others. Most, but not all, are trained to offer ARTs. The CRM was informed of Lesotho's progress in establishing a referral hospital. This is a public-private partnership (PPP) project that will be managed by the private sector for 15 years.

718. The CRM learned that Lesotho has a 'flying doctor service' as part of its health system. It is a method of supplying medical services by airplane to areas where doctors are few and communications difficult. In this way, people living in the rural and mountainous areas can get medical treatment. The flying doctor service runs 10 remote clinics in the highlands and transports supplies and health personnel to the clinics. It also operates an air ambulance service.
719. Fees for normal surgical deliveries are standardised in the hospitals, while services in all health centres are free. The district health management system is responsible for public health services in districts. In other words, the district is the focal point for local health activities and services in order to reach a wide range of people. The district is responsible for making decisions, planning, engaging with the public, and managing health priorities.
720. The health indicators are worrying, despite these arrangements. According to the 2009 Reproductive Health Policy, under-5 mortality is estimated at 113 per 1,000 live births and maternal mortality is very high at 762 per 100,000 live births. This is an increase from 282 per 100,000 in 1996 and 419 per 100,000 in 2001. The increase in the maternal mortality rate, according to the MoHSW, is partly because of the poor health system. It is characterised by inadequate staffing and lack of equipment, supplies and medicines. It is also a result of increasing poverty, especially among women. Although antenatal care coverage is improving, deliveries under skilled health professionals are reportedly decreasing; that is, 30 per cent of births are either assisted by friends, relatives or no one. The risk of maternal death is estimated at 1:32, which means that one out of every 32 women will die of pregnancy and childbirth-related conditions. The total fertility rate has declined from 4.2 children per woman in 2001 to 3.5 in 2004. Furthermore, cervical cancer is reported to be the most common cause of death amongst women. This means that Lesotho also needs to focus on noncommunicable diseases.
721. The CRM learned that there is a shortage of skilled health staff in the country. In 2005, the doctor and nurse population was 1: >16,000 people and 1: >2,000 people respectively.²⁸ Other health indicators are presented in table 6.9 below.

Table 6.9: Data on health and family planning, 2006

Health indicators	
Hospital-bed population ratio	1:762
Doctor-nurse ratio	1:5
Contraceptive usage rate	37 per cent
Proportion of women using condoms	4.8 per cent

Source: Government of Lesotho (2007): Lesotho Population Data Sheet.

²⁸ MoHSW (2009).



722. Furthermore, the health information system is reported to be weak. This is exacerbated by the parallel collection of health statistics from various sources, which creates inconsistencies. Drugs and supplies are also inadequate. Moreover, it is the HIV and AIDS pandemic that overwhelms the health system. Accordingly, stakeholder concerns were mostly related to HIV and AIDS, particularly the lack of adequate nutrition for persons living with HIV and AIDS, and the congestion at hospitals and health centres as a result of many people seeking ART.

HIV and AIDS

723. The CRM learned that there are as many as 270,000 people living with HIV and AIDS in the country. There are also estimates of about 108,700 OVC in the country as a result of HIV and AIDS. In most cases, these children are left to fend for themselves because their relatives are too poor or do not wish to take the responsibility.
724. Maseru, the capital city, has a prevalence rate of 35.8 per cent, well above the national prevalence rate of 23.2 per cent (the national incidence rate for women is 26.4 per cent and that for men is 19.3 per cent).²⁹ It is further estimated that nearly 62 new infections occur every day. The high prevalence of HIV and AIDS is an overarching concern in Lesotho. The country ranks third in the world in HIV prevalence rates.
725. As reported in the CSAR, the government has taken several measures to address the pandemic. They include coordinating HIV efforts and awareness campaigns at district level. The legal framework has been reviewed to create an enabling environment for fighting HIV and AIDS. In 2006, Lesotho passed the Legal Capacity of Married Persons Act that provided equal status to women who had previously been considered minors under customary law. The Labour Code (Amendment) Act No. 5 of 2006 was passed to stop discrimination at the workplace based on HIV status. It protects employees who are living with, or presumed to be living with, HIV or AIDS. Lesotho has started a process of developing a comprehensive HIV and AIDS bill. The Public Health Order (1970) provides for maintaining public health, including HIV and AIDS. The Labour Code (Codes of Good Practice) Notice (2003) states that no one should be dismissed merely on the basis of HIV status. The Sexual Offences Act (2003) contains several provisions that deal with HIV and AIDS. It includes making it mandatory for an accused to undergo an HIV test within one week of being charged with a sexual offence. Four additional policies have been developed and are being implemented. The National Policy on OVC was approved in 2006. The Education Sector Policy on HIV and AIDS was developed in 2007 and the National HIV and AIDS Testing and Counselling Policy in April 2006. Lesotho's Cabinet approved the National Blood Transfusion Policy in 2006. The main goal of the policy is to ensure that safe blood is available in the country.
726. Stakeholders were generally satisfied with the actions that the government is taking to tackle HIV and AIDS. In particular, the KYS campaign seems to have had some success and has created a lot of awareness. However, much more needs to be done about awareness, as the CRM was informed of persisting beliefs among certain rural communities that contraceptive pills cause AIDS. It was also evident that there is a great deal of complacency and resistance to attitudinal and behavioural

²⁹ NAC (2008) Report for HIV and AIDS Quarterly Partnership Forum.



changes conducive to curbing the pandemic. The CRM learned from NACs in Thaba-Tseka that the incidence of HIV is more rampant among married people.

727. The CRM is impressed with the introduction of NACs in all the 10 districts of Lesotho. The NACs work with development partners and NGOs by coordinating all the activities pertaining to HIV. Some of the NACs' recent achievements include undertaking two major studies on modes of transmission and on multiple and concurrent partnership. The latter study found a high incidence of multiple concurrent sexual partnerships (24 per cent) in Lesotho, compared with 10 per cent in the SADC region. The NAC is also developing a behavioural change and communications strategy and has undertaken various awareness and advocacy campaigns.
728. With regard to treatment, most stakeholders acknowledged that there are centres that provide free ART. However, the treatment is only effective in a nutritious diet that most people do not have access to. The lack of nutrition therefore hampers the efforts being made in this sector.

iii. Recommendations

729. The APR Panel has made a number of recommendations.

With regard to **education**, it recommends that Lesotho:

- Enact the Education Amendment Bill, which would make primary education compulsory. (*Government of Lesotho, Parliament*)
- Encourage students, especially boys, to attend secondary and tertiary institutions. (*Government of Lesotho, civil society, other nonstate stakeholders*)
- Expand programmes and institutions for early childhood education, particularly in rural areas. (*Government of Lesotho*)
- Implement education reform programmes vigorously, particularly those involving the training of teachers. (*Government of Lesotho*)

With regard to **health**, it recommends that Lesotho:

- Continue to expand the health sector by constructing more health centres, as health is still not accessible to some communities. (*Sector ministry*)
- Provide training for health personnel in order to improve the delivery of services, and also administer HIV and AIDS treatment properly. (*Sector ministry*)
- Implement plans and programmes vigorously, particularly ones to address infant and maternal mortality. (*Government of Lesotho, civil society, other nonstate stakeholders*)

With regard to **HIV and AIDS**, it recommends that Lesotho:

- Increase access to antiretroviral treatment. (*Government of Lesotho, cooperating partners*)
- Provide training for all health centres in order to administer HIV and AIDS treatment. (*Sector ministry*)



- Continue its sensitisation campaign to raise greater awareness about HIV and AIDS and to promote behavioural change. (*Government of Lesotho, civil society, other nonstate stakeholders*)

Objective 4: Ensure affordable access to water, sanitation, energy, finance (including microfinance), markets, information and communication technology (ICT), shelter and land for all citizens, especially the rural poor

i. Summary of the CSAR

730. Ensuring affordable access to water, sanitation, energy, finance, markets and ICT, especially for the rural poor, is critically important in any country's effort to improve the quality of life of its citizens and to reduce poverty. The CSAR considers access to basic needs under the following headings: access to water; access to sanitation; access to energy; access to finance (including microfinance); and access to ICT.

Access to water

731. The CSAR acknowledges that there is reasonable access to safe drinking water in Lesotho. At least seven of every 10 households (74 per cent) have access to treated piped water. This figure comprises 15.3 per cent (about one in nine households) with access to piped water inside their dwellings and 58.7 per cent (close to two of every three households) that access pipe-borne water from a public facility. In addition to the 74 per cent of households with access to piped water, the CSAR states that a further 6 per cent have access to reasonably safe water from boreholes. This makes a total of 80 per cent (four out of five households) that have access to safe water. The CSAR notes that only 8 per cent of the urban population had no access to safe drinking water compared with 32 per cent of the rural population in 2002/2003.
732. However, the CSAR also provides other figures for access to drinking-water sources. These are measured either by the distance travelled to reach the nearest source or by the time taken to reach the source. The 1994/1995 HBS reveals that 82 per cent of all households are thought to have access to safe drinking water if they travel 500 metres or less to reach the nearest water supply. On the other hand, the 2002/2003 HBS shows that 90.4 per cent of all households travel on average 29 minutes or less to reach the nearest source, while only 2 per cent of households travel one hour or more to reach the nearest source of drinking water.
733. There is also the issue of the availability of safe drinking water. Here the CSAR notes that there is a problem caused by seasonal water shortages. This is because the water distribution network is inadequately developed and because of institutional and management constraints. The availability of safe drinking water can also be compromised by water pollution from the activities of large industries that require large amounts of water, as well as agricultural chemicals, pit latrines, uncontrolled urban drainage and landfill sites.



Access to sanitation

734. The CSAR notes that access to sanitation is low among the poorer households. It also notes that the less-poor households have access either to a pit latrine or a ventilated improved pit (VIP) latrine. Flush toilets are virtually nonexistent in poor and very poor households. The CSAR does not give a clear indication of actual access to sanitation by country, rural and urban area.

Access to energy

735. The CSAR notes that Lesotho still has a low level of access to energy, particularly electricity. Nevertheless, the country is endowed with nonrenewable, potentially renewable and renewable energy resources that could be developed to meet the country's energy needs for domestic and industrial use. However, the CSAR reports that, according to the 2002/2003 HBS, about 14 per cent of households had access to electricity. Most of the households are located in urban areas. The CSAR also indicates that the Ministry of Natural Resources estimated that, in 2003, only 1 per cent of rural households had access to electricity. Indeed, it is estimated that 90 per cent of the energy consumed in rural areas is sourced from indigenous biomass fuels such as shrubs, crop residues and cow dung.
736. The CSAR also notes that the government considered providing modern energy services, especially electricity, as a way of increasing rural productivity and of improving living conditions in rural areas. Therefore, the government is promoting rural electrification as a way of facilitating rural economic development and alleviating poverty through its energy policy and the PRS.

Access to finance

737. The CSAR notes that the government has undertaken several initiatives to ensure that there is access to finance, especially for the poor and rural communities. In this regard, it refers to the rural savings and credit scheme, the establishment of which followed the sensitisation campaigns carried out by the CBL in collaboration with the Ministry of Agriculture and Food Security (MoAFS), NGOs and other development partners in 2006. The scheme, which sought to address the discrepancy between savings mobilisation and resource use by promoting access to bank credit by rural and low-income communities, was able to sensitise a total of 18 resource centres and to mobilise 134 groups. Of these, 54 banked with commercial banks.
738. The CSAR also notes that cooperatives with export potential were identified under the Export Finance and Insurance Scheme, through which 27 cooperatives with a total of 687 members were selected. These cooperatives were engaged in handicrafts as well as producing Vaseline and garments. However, the CSAR notes that most of these cooperatives did not meet expectations and the scheme's requirement that they export 50 per cent of their produce. They therefore did not qualify for the minimum loan of M50,000.

Access to ICT

739. The CSAR notes that Lesotho has not run, or participated in, projects to run ICT surveys. As a result, there is no official information on ICT, especially on access to ICT by the poor. However, given that the World Summit on the Information Society (WSIS) requires that official statistics,



which monitor the use of information, are collected and produced, Lesotho may have decided to start compiling such statistics. The project was launched in June 2004.

ii. Findings of the CRM

740. The CRM held open forums with nonstate and state stakeholders, and consulted with relevant institutions, to get updated information on the policies and strategies introduced by the government to improve access to basic services for water and sanitation, energy, ICT and finance.

Access to water and sanitation

741. The CRM notes that the government and the two institutions responsible for supplying water in urban and rural areas have adopted standards that are different from those contained in the CSAR for assessing which people have access to safe drinking water. Instead of considering households located at fewer than 500 metres from a source of water, the two institutions consider households in which people travel fewer than 150 metres to reach the nearest source or standpipe and have access to a minimum of 30 litres per person per day.
742. The CRM recognises that, at independence, most rural villages in Lesotho did not have piped water and latrines were very rare. In the 1990s, access to clean drinking water rose from 52 per cent to 63 per cent because of the efforts of the Department of Rural Water Supply (DRWS), which has the mandate to serve all rural areas. The situation has deteriorated in semiurban areas that are also served by the department, especially with regard to the number of people per connection point.
743. The CRM was informed that the Water and Sewerage Authority (WASA) was covering almost 63 per cent of all people living in urban centres in the 2006/2007 fiscal year. These include customers who drew water from their own yard taps. The CRM was further informed that implementing Maseru Semi-Urban Water Supply Phase I and Phase II and Community Water Supply and Sanitation would increase coverage in Maseru to reach almost 90 per cent by 2010. Improving access to water in other urban centres is expected to be achieved under the Three Towns Water Supply and Sanitation Project and the US-sponsored Millennium Challenge Cooperation (MCC).
744. Similar progress has been achieved with sanitation. The percentage of households with some form of latrine (a pit latrine or ventilated improved latrine, called a VIP latrine) increased from 31 per cent in 1990 to 49 per cent in 1999. However, fewer than 20 per cent of households had VIP latrines that are thought to be the only ones that offer adequate health protection.
745. The water-borne sewerage coverage in Maseru was estimated to be 15 per cent, while the figure was only 6 per cent in districts during the 2006/2007 fiscal year. The low levels of access to sanitation were the result of the more expensive methods of sewerage clearance that involve emptying septic tanks by fleets of vacuum tankers.
746. The CRM notes that there were several significant stakeholders involved in water supply, sanitation, health and hygiene education activities in Lesotho. They are:
- The commissioner for water.



- The Policy, Planning and Strategy Unit.
 - The Department of Water Affairs.
 - WASA.
 - The DRWS.
 - The Lowlands Water Supply Unit.
 - The National Rural Sanitation Programme.
 - The Urban Sanitation Improvement Team.
 - The Lesotho Highlands Development Authority (LHDA).
 - Local government authorities at community and district level.
747. The CRM was also informed that the government of Lesotho had tried to address the issue of fragmented institutional arrangements for water supply by adopting a water resources management policy. It outlined a number of strategies for improving the management of water resources, the provision of water supply and sanitation, and overall coordination within the sector. However, effective coordination in the water and sanitation sectors may have been difficult to achieve because the government decided to produce the Lesotho Water and Sanitation Policy in 2007. The new policy was based on recognising that it was necessary to develop a holistic and sustainable water resources management and development approach. This would ensure a participation of stakeholders that would be as wide as possible and that water would be treated as an economic, environmental and social good. The policy document is also aligned with Vision 2020, the PRS, the MDGs and other related policies.
748. Another important measure taken by the government to improve access to clean water in urban areas is the performance agreement, signed with WASA in 2004. It was intended to improve WASA's delivery of services to customers by developing new programmes and improving the existing ones. Among the obligations that WASA was to fulfil within the performance agreement was to extend its boundaries of water supply and services to the poor. WASA's financial performance would also be improved through the universal use of prepaid meters, including at standpoints.
749. To address the difficulty of storing enough water in WASA's reservoirs during the droughts that often plague the country, WASA and the government have begun the Metolong Dam Project. This is expected to augment water supply in Maseru and its neighbouring town centres in the near future. The current capacity of the Maseru water treatment plant is 45 megalitres per day, but this capacity cannot be sustained when river flows are low. The Maqalika Wastewater Treatment and Pumping Station Project will be launched soon to supply up to 10 megalitres of clean water to the Maseru area. The second phase of the LHWP, which was approved by the government of South Africa in March 2009, is expected to address the issue of future water and electricity supply to Lesotho.
750. The government is also faced with inadequately treated sewage and trade wastes. They are the main sources of surface water pollution and are responsible for introducing toxic substances to the aquatic environment. Untreated sewage also contributes to increases in micro-organisms that



threaten the health of the people, particularly in urban areas. Spillage from septic tanks and the high concentration of latrines in Maseru may contaminate groundwater resources, upon which many poor households depend. They use hand pumps to access the water. Poor management of municipal wastes generated in urban areas allows disease vectors to proliferate, with serious consequences for health.

751. WASA has also begun improving and increasing sanitation service levels that are presently limited to a small section of the urban and periurban population in its service areas. For this purpose, WASA will benefit from the Maseru Wastewater Project being developed by the government. Its objective is to improve sanitation service levels in Maseru, particularly within the Maqalika catchment, by protecting the reservoir from pollution and, therefore, to improve public health. The project will help Lesotho to achieve the MDGs. In addition, the Lesotho Lowlands Water Supply Scheme Feasibility Study is considering how best to supply water, by 2010, to all lowland settlements which have populations greater than 2,500.

Access to energy

752. Lesotho's Second State of the Environment Report (2002) estimates that more than 90 per cent of the country's total energy is consumed in the domestic sector. It is used mainly for cooking, heating water and space, lighting and for powering entertainment appliances like radios and televisions. The main sources of this energy include electricity, paraffin, biomass fuel wood, animal dung, crop residues and shrubs, candles, liquefied petroleum gas (LPG), coal and solar energy. The sources and the extent of their use differ between urban and rural households, depending on their availability and cost relative to the incomes of the households in the area.
753. Government indicates that the energy patterns in urban and rural households depend on a number of factors. These are³⁰:
- That over 80 per cent of all households in Lesotho use wood and paraffin as their main source of energy for heating. They use electricity, LPG and coal to a lesser extent.
 - That over 80 per cent of all households use biomass fuels and paraffin as their main source of energy for cooking. Only 8.4 per cent of these households, mainly in the urban areas, use LPG. Electricity use for cooking is minimal because of its cost and the low connection rate.
 - That about 95 per cent of all households in Lesotho uses candles and paraffin as the main source of energy for lighting. In urban areas, however, electricity is the main source.
754. The CRM notes that most of the rural poor rely on biomass fuels (fuel wood, shrubs, crop residues and cow dung) to meet their energy needs for cooking and heating. Given that forests cover only between 0.2 and 0.3 per cent of the surface area, the reliance on fuel wood could only further reduce the capacity of these areas. Fuel wood substitution is limited by the high cost of LPG in remote areas. This is why the government considers the provision of modern energy services, especially electricity, as the key to increasing rural productivity and improving living conditions in rural areas. Currently, only about 14 per cent of the households in Lesotho have access to

³⁰ Government of Lesotho (2002): Second State of the Environment Report.



electricity, with most of these households being located in urban areas. It is estimated that only 1 per cent of rural households have access to electricity. The mountainous terrain of the country and its sparsely distributed settlements are the main limiting factors to covering most of the rural areas by extending the electricity grid.

755. The CRM notes that Lesotho started producing significant amounts of domestically generated electricity when the Muela Hydropower station was commissioned in 1998. However, the production of the Muela Hydropower facility can no longer cover all the electricity needs of the country adequately. Table 6.10 below indicates that the ability of the country to meet its electricity supply requirements has been declining. It has therefore resumed its imports from Eskom of South Africa. The Muela facility, with 72 megawatt hours (MWh) of installed capacity, still produces enough power to meet the demand for electricity in summer, but imports are needed in winter.

Table 6.10: Bulk electricity supply to the Lesotho Electricity Company (LEC) in MWh

Year	2005/2006	2006/2007
LEC-generated electricity	3,988	2,077
Muela-supplied electricity	440,481	482,932
Eskom-supplied electricity	38,891	56,045
Total	483,360	541,054
Self-reliance (per cent)	92	90

Source: LEC Annual Report, 2006/2007.

756. In order to compensate for any deficit that could be detrimental to the socioeconomic development of the country, the LEC has signed power-purchasing agreements with Eskom of South Africa and EDM of Mozambique for 27 MWh and 30 MWh respectively. Table 6.11 shows the actual imports from these sources and from the Muela Hydropower facility.

Table 6.11: Energy imports in MWh for 2008

Date	LHDA	Eskom	EDM	Total
January 2008	39,509	3,038	–	42,547
February 2008	37,925	3,706	–	41,631
March 2008	42,474	3,336	–	45,810
April 2008	43,779	4,117	–	47,896
May 2008	47,987	6,649	–	54,636
June 2008	49,112	8,612	–	57,724



Date	LHDA	Eskom	EDM	Total
July 2008	51,508	8,965	–	60,473
August 2008	48,901	8,392	–	57,293
September 2008	45,938	7,121	–	53,059
October 2008	36,531	10,752	2,898	50,181
November 2008	23,749	22,217	2,024	47,990
December 2008	32,964	10,116	1,592	44,672
Subtotal	500,377	97,021	6,514	603,912

Source: LEC.

757. The CRM notes that the government developed a national electrification programme for the next 15 years to meet the increasing demand for electricity by increasing domestic supply. Electricity demand was projected to be about 288 MWh (fourfold the installed capacity of Muela) by 2020 and a number of power-generation options were identified to meet this demand. These include hydropower plants, pump storage hydropower schemes for electricity imports within the South African Power Pool (SAAP), microhydropower facilities, wind farms and solar photovoltaic (PV) systems. The master plan also identified target settlements for grid expansion and those that require off-grid solutions. The national electricity grid will cover most parts of the lowlands and the 10 district headquarters of the country. There are plans to connect community social facilities (like schools and rural health centres) and any household located at a maximum of 3.5 km on either side of electricity transmission lines.
758. The CRM notes that off-grid solutions, in the form of stand-alone and minigrid systems, are probably best suited for countries with difficult terrains and sparsely populated rural areas – like Lesotho. The government of Lesotho has initiated the Lesotho Renewable Energy-Based Rural Electrification (LREBRE) Programme, funded by the GEF, which is being implemented by the Department of Energy within the Ministry of Natural Resources. The LREBRE will complement the grid extension efforts by the LEC.
759. The restructuring of the LEC has allowed the power utility to improve its financial and technical performance. It has considerably reduced its nontechnical losses by adopting prepaid metering for all its customers, thereby reducing billing costs. The LEC gets bulk supply through the bilateral sales agreement signed in 1993 and through imports from Eskom of South Africa and EDM of Mozambique. It is also planning to take advantage of the existing reservoirs of the LHWP to generate electricity from pump storage schemes, thereby increasing the capacity of the country to generate electricity to sell within SAAP in peak hours. The 1,000 MWh pump storage facility, for which the African Development Bank (AfDB) will be financing the prefeasibility study within its Lesotho Electricity Supply Project that is due to start soon, is part of the plan.



Access to finance

760. The CRM believes that small, medium and microenterprises (SMMEs) can make a substantial contribution to economic development and poverty reduction. This is the more so because their start-up costs are often low. Therefore, providing microcredit by microfinance or other institutions is necessary to enable small businesses and the informal sector to engage in productive activities. In Lesotho, credit cooperatives have been the oldest form of microfinance lending. Recently, the sector has been growing and informal financial institutions, like rotating savings, credit associations and burial societies, have become popular.
761. These institutions mobilise savings from members and extend credit to those who need funds. According to the findings of the CBL, funds accumulated by most of the savings and credit associations in Lesotho are used to finance consumption rather than for investment. Furthermore, the PRS identifies lack of access to credit by the poor as one of the major hindrances to the success of SMMEs. Promoting and improving group/village savings and credit schemes, as well as the savings and credit cooperative organisations, should be explored as ways of providing the poor with access to credit. A study is contemplated within the PRS to assess how credit can be made more accessible to SMMEs in a viable and sustainable manner. This study will serve as a basis for developing a long-overdue microcredit policy.
762. The government will support establishing:
- Rural finance savings and credit groups. The CBL will encourage commercial banks to lend to these groups through a credit guarantee scheme with funds generated from donors or government to underwrite the loans.
 - An export finance and insurance scheme by modifying an earlier scheme established in 1988.
 - Financial services aimed at increasing access to credit in rural areas through the postal banking services announced in the 2004/2005 budget.
 - A credit bureau aimed at assisting lending institutions to assess the creditworthiness of borrowers before their loans are approved.
763. During consultations held with stakeholders, it was indicated that the government has taken the initiative to guarantee bank loans for farmers engaged in block farming as a way of encouraging smallholder farmers to pool their land in order to increase agricultural production. It was also indicated that access to credit would be improved once national identity cards are introduced.

Access to ICT

764. The CRM notes that the government had developed an ICT policy to enable the country to achieve its development goals as outlined in Vision 2020 and the PRSP. It superseded the telecommunications policy that helped to set up the framework for improving communications connectivity throughout the country. The specific objective of the new policy is to facilitate the restructuring of the sector and to provide guidance on the allocation of responsibilities to various stakeholders. The Ministry of Communications, Science and Technology was responsible for developing the policy. The



Lesotho Telecommunications Authority (LTA) is tasked with controlling operations in the sector, while service providers are responsible for service delivery.

765. The CRM noted that the new ICT policy is expected to provide an appropriate framework for stimulating the development of the national infrastructure needed to support the delivery of ICT services throughout the country and for promoting universal access to information and knowledge. It will also help develop a transparent and effective legal and regulatory framework that promotes investment in ICT services.
766. The CRM also notes that, over the last few years, privatisation has made a significant contribution to improving access to ICT. However, communication development is concentrated in Maseru and in the lowlands of the northern and southern regions of the country. It was estimated that Maseru accounted for more than 70 per cent of main telephone lines in 2005. According to the UN Statistics Division, there are about 360,000 mobile telephone subscribers in the country. There were about 20 mobile phones per 100 people in 2006. Internet users were estimated to be 60,000, with an average of 3.4 connections per 100 people.

iii. Recommendations

767. The APR Panel recommends that Lesotho:
- Improve the coordination between the different stakeholders in the field of water supply. (*Government of Lesotho, civil society, other nonstate stakeholders*)
 - Address the land issue in urban areas so as to facilitate urban development planning and the installation of distribution networks for water and energy services. (*Government of Lesotho, civil society, other nonstate stakeholders*)
 - Facilitate access to electricity for urban households by allowing the payment of connection charges on instalment. (*Government of Lesotho*)
 - Waive duties and taxes applied to the importing of equipment for, and components of, renewable energy systems, particularly PV solar home systems. (*Government of Lesotho*)
 - Promote low-cost housing schemes to facilitate access to housing for low-income and poor households in semiurban areas. (*Government of Lesotho, cooperating partners*)

Objective 5: Progress towards gender equality in all critical areas, including equal access to education for all girls at all levels

i. Summary of the CSAR

768. The mandate of the Ministry of Gender and Youth, Sport and Recreation (MGYSR) is to:
- Design gender policies, development plans, and programmes.



- Encourage implementing policies that promote the advancement of women. These should focus on poverty, education and training, power and decision making.
 - Monitor the gender mainstreaming of national and sectoral policies, development plans, programmes, and budgets.
769. To ensure effective implementation, the MGYSR is supported by gender focal points in the line ministries, the Gender Caucus Group, the Women's Parliamentary Caucus Group and a gender steering committee comprising government and nongovernment sector representatives. As part of the process of decentralisation, the Department of Gender has appointed district gender officers to assist local authorities to mainstream gender in their plans and programmes. The ministry is supported financially and technically by development partners. CSOs and the NGOs have also played significant roles in gender mainstreaming efforts in Lesotho.
770. Nevertheless, the issue of gender is still a challenge in Lesotho. While the current law on land matters (the Land Act of 1979) is gender-neutral in its provisions, the distribution of land is biased towards males, especially in the rural areas where the allocation of land is still based on customary practice. According to these practices, a family is headed by a man who has control over family property, which must be in his name. The access of women to land, therefore, is mainly through men. The CSAR also notes that the Labour Code Order (1992) provides compensation for six weeks' maternity leave, except in the textile industries where pregnant women are entitled to only two weeks' pay.
771. With regard to the empowerment of women, an overwhelming majority of political and decision-making positions are held by men. Women have limited access to the most influential posts in society. An example is their low representation in Parliament. These prevailing gender disparities in Lesotho are obstacles to the effective participation of women in the socioeconomic and political development of the country. There are few effective development strategies in which women play a central role. Overcoming gender equality challenges is critical for addressing the national ones.

ii. Findings of the CRM

772. The CRM finds that the Land Act has provided women with equitable access to land. Therefore, discriminatory practices where land is concerned are things of the past. Women are also able to access credit, although there is a severe shortage of microfinance institutions in Lesotho. With regard to discrimination against women in the textile industry, the Ministry of Employment and Labour clarified that section 133 of the Labour Code provides for 12 weeks of maternity leave. However, compensation, and the length thereof, is at the discretion of organisations. It will therefore not be uniform across industries.
773. On the whole, the CRM finds that there is a strong political will to promote gender equality in Lesotho. Aside from the recent ratification of the SADC Protocol on Gender and Development (2008), the government must be credited with appointing nine females to the Cabinet. This equates to 38 per cent. The nine women in the Cabinet include: the ministers of gender and youth, sport and recreation; local government and chieftainship; tourism, environment and culture; education and training; justice and human rights and correctional services; health and social



welfare; and the assistant ministers of education and training; home affairs and public safety, and of parliamentary affairs; and employment and labour. Women are also well represented on district and local councils. Nevertheless, the CRM concurs with the CSAR that there is a lack of female representation in Parliament, as only a fifth of parliamentarians are women. The CRM further learned that women often do not elect other women because of persisting cultural stereotypes that men are better suited for politics.

774. In terms of education, Lesotho is unique in that there tend to be gender disparities in favour of females. There are cultural and economic reasons for this. Tending to livestock is typically allocated to young boys and most of them are later encouraged to migrate to South Africa to work in the mines. However, as table 6.12 shows, the country has managed to achieve gender equality at the primary level since 2003. Boys and girls are nearly equally represented in all the districts.

Table 6.12: Gender disparities in primary enrolments

District	Enrolment by gender		Total	Percentage of girls
	Males	Females		
Butha-Buthe	13,716	12,827	26,543	48
Leribe	34,683	32,148	66,831	48
Berea	28,336	26,108	54,444	48
Maseru	44,218	42,699	86,917	49
Mafeteng	23,789	22,501	46,290	49
Mohale's Hoek	19,976	20,714	40,690	51
Quthing	13,609	14,402	28,011	51
Qacha's Nek	9,071	9,419	18,490	51
Mokhotlong	10,203	11,657	21,860	53
Thaba-Tseka	15,082	17,120	32,202	53
Total for 2005	212,683	209,595	422,278	50
Total for 2004	214,762	212,247	427,009	50
Total for 2003	213,746	214,974	428,720	50

Source: Education Statistics, MoET Planning Unit (2006), in CSAR (2008).

775. In secondary education, however, gender disparities continue. This is shown in table 6.13. There are more girls than boys in all the 10 districts of Lesotho. The disparities are more evident in Qacha's Nek, Mokhotlong and Thaba-Tseka, but less so in Berea, Maseru and Quthing.



Table 6.13: Gender disparities in secondary enrolments

District	Enrolment by gender		Total	Percentage of girls
	Males	Females		
Butha-Buthe	3,109	3,887	6,996	55.6
Leribe	8,339	10,879	12,218	55.6
Berea	5,424	6,134	11,518	53.1
Maseru	10,684	12,954	23,638	54.8
Mafeteng	4,818	6,369	11,187	56.9
Mohale's Hoek	2,686	3,335	6,021	55.4
Quthing	2,354	2,756	5,110	53.9
Qacha's Nek	1,268	1,993	3,261	61.1
Mokhotlong	1,194	1,935	3,129	61.8
Thaba-Tseka	1,210	1,768	2,978	59.4
Total for 2005	41,086	52,010	93,096	55.9
Total for 2004	38,915	49,227	88,142	55.8

Source: Education Statistics, 2005 MoET Planning Unit, in United Nations Development Programme (UNDP) Human Development Report (2006).

776. There are more women in tertiary institutions than there are men. This is because men tend to migrate to South Africa to work in the mines from an early age. Statistics from Lesotho's main university (see table 6.14) show that women comprise 52 per cent of the student population. There are more women than men in all faculties, except science and agriculture.

Table 6.14: Gender disparities in tertiary enrolments (2005)

Faculty	Gender (percentage)	
	Males	Females
Agriculture	60	40
Education	35	65
Health Science	34	66
Humanities	35	65
Law	50	50



Faculty	Gender (percentage)	
	Males	Females
Science	77	23
Social Science	49	51
Total	48	52

Source: Student Record, NUL, in UNDP Human Development Report (2006).

777. The CSAR notes that there is great potential for women in rural areas in the field of science and technology, as there are forms of indigenous technical knowledge used in food security on a regular basis. The CSAR also notes that the director of the Department of Science and Technology, in the Ministry of Communications, Science and Technology, is a woman and that the 2005/2006 Science and Technology Policy refers to gender equity. Notwithstanding low levels of representation in Parliament and persisting gender violence, the CRM was informed of other achievements made to promote gender equality that are commendable and worthy of being emulated by other countries. This is highlighted in box 6.1 below.

Best practice 6.1: Gender equality

Lesotho has established institutions, passed laws and developed policies that respond to gender issues and are rights-based. A case in point is the Legal Capacity of Married Persons Act No. 9 of 2006. This effectively eliminates discrimination against women in all walks of life (except in the instance of inheritance), including women married under customary law. In addition, the Local Government Electors Act (amended) (2005) requires that 30 per cent of local council seats be reserved for women representatives. During the 2005 local government elections, the country exceeded this percentage and 58 per cent of local councillors are female. Lesotho has therefore exceeded the SADC 2005 target of 30 per cent and the AU/SADC standard of 50 per cent of women representation in political decision-making structures at local government level. Lesotho has also exceeded the SADC target of 30 per cent in the judiciary, where 42 per cent of judges are women. Although Lesotho has only one city council (Maseru), 74 per cent of its city councillors are women, thereby surpassing both the 30 per cent and the 50 per cent targets.

The Gender and Child Protection Unit was established in 2000; the Gender Policy was developed in 2003; the Sexual Offences Act was enacted in 2003; and the Legal Capacity of Married Persons Act was enacted in 2006 to abolish the traditional practice of marrying minors. The first woman judge was appointed in 1994. Lesotho had its first female speaker of Parliament in 2002 and a female commissioner of police in 2004 (she was also the first woman to have achieved this status in the SADC region). The chairperson of the Independent Electoral Commission (IEC) is a woman. In 2005, a woman became mayor of Maseru. A woman was appointed deputy governor of the CBL in 2006. The Cabinet currently comprises 38 per cent women.

Source: CSAR (2008) and CRM findings



iii. Recommendations

778. The APR Panel recommends that Lesotho:

- Implement the national gender policy fully and work towards complying with the gender protocols. These stipulate that Parliament should comprise 50 per cent women. (*Government of Lesotho, civil society, other nonstate stakeholders*)
- Provide incentives, for example through bursaries, for boys to attend secondary and tertiary institutions. (*Government of Lesotho*)
- Encourage girls to take an interest in science. (*Government of Lesotho*)
- Introduce the regular, systematic and comprehensive collection of disaggregated data on gender. (*Government of Lesotho*)

Objective 6: Encourage broad-based participation in development

i. Summary of the CSAR

779. The government developed Vision 2020 in 2000. It aims at providing a long-term perspective within which short- to medium-term plans could be developed. The preparation of the PRS, consisting of eight priority areas, followed, as did the PSIRP, which focuses on improving financial management and accountability, service delivery through decentralisation and public service management.
780. According to the CSAR, the process of drafting Vision 2020 and the PRS was highly participatory. National stakeholder meetings were held and 18 months were dedicated to soliciting grass-roots input to the process of drafting the vision. Over 200,000 people were consulted while the PRS was being drafted.
781. The CSAR reported that the Local Government Act, adopted in 1997, aims at effective decentralisation and greater involvement of the community in the governance and development process. Government is yet to develop a local government policy to follow the Act. However, holding the first successful local government elections in 2007 was a major step in this direction.
782. The CSAR notes that traditional rulers are important stakeholders in the country because of the historical development of Lesotho society. The government had ensured that chiefs are represented in the Senate and on local government bodies, particularly in the rural areas where more than three-quarters of people live and where traditional chiefs play major roles.

ii. Findings of the CRM

783. The CRM commends the commitment of the government and people of Lesotho to work together for the future prosperity of their country by developing Vision 2020 and the PRS through an intensive, participatory process. This inclusiveness shows a shift in attitude towards the participation of stakeholders in the development process. It underscores the need for both state and nonstate stakeholders to join in achieving strategic goals. There is no doubt that the involvement of



stakeholders will increase the chances for ownership of, and identification with, these plans and their outcomes.

784. The CRM sought the views of a wide spectrum of state and nonstate stakeholders, across regions and among interest groups, to assess the intensity and quality of the participation of society in the development process. The enthusiasm for debate and the candid, but varied, views and perspectives presented impressed the CRM. They indicated that the community at large remains engaged. The stakeholders generally agreed that the process for drafting and adopting Vision 2020 and the PRS was highly participatory and that the proposed policy framework is appropriate for Basotho society. However, there were different views about the adequacy and quality of the consultation.
785. Some stakeholders contended that the consultations did not cover all parts of the country and that large segments of the community are marginalised in the decision-making process. They emphasised that the community is better placed than are government bodies to determine priorities and to monitor the outcome of programmes. They complained that they are often either minimally involved or not consulted at all. Interest groups, like farmers and the weaker segments of society (the aged, the disabled, persons living with HIV and AIDS, and orphans), are in better positions to convey their problems and expectations. Some other stakeholders reported that they were consulted, but that there was no feedback. Conversely, some others confirmed that they were consulted and were satisfied with the consultation process, citing the numerous occasions when they were directly engaged or involved through other means such as the media. For them, the issue is the level of awareness and the quality of the information they received. Most stakeholders in the rural areas seem to agree, however, that the planning and the decision-making processes are largely top-down. There are however indications of changes in government's approach. The CRM, for example, was informed of recent nationwide efforts to involve stakeholders in budget discussions and to seek their views on the proposed programmes and policies.
786. The responses of the participants confirm the results of the citizens' opinion surveys that were conducted to assess the attainment of self-reliance, highlighted earlier in the report. The similarity of the responses indicates gaps in information and communication. The consultation process needs to be more proactive. Stakeholders' feedback should be sought.
787. Increased and deepened decentralisation ensures ownership and greater participation of the people in shaping the future of the country. Lesotho's decentralisation policy is based on the sound coordination of planning and the delivery of services, reducing transaction costs and, ultimately, maximising the benefits to the community. However, the policy is not being fully implemented. Stakeholders were very concerned about the delays in implementing programmes and projects. Stakeholders felt that the coordination between the implementing bodies in service delivery is inadequate. The CRM traces this mainly to the lack of clarity about the respective roles and responsibilities of the different local authorities on the one hand and those between the central government, local government and the community on the other. The CRM underscores the urgency of streamlining this relationship. Local councils, which are the more visible targets of the blame for the lack of improvement in service delivery, appear inadequately resourced in terms of the human and financial resources that are needed to implement, monitor and evaluate the effectiveness of policies and programmes. Local councils have no independent sources of revenue, as their resources consist of central government transfers earmarked for services. Therefore, they may not



have the flexibility to respond to changing circumstances and emergencies. The CRM therefore recognises that it is necessary to allow local councils to raise their own revenues to reduce the overdependence on central government subventions. Attention should also be paid to building the technical capacities of the councils.

788. Chieftaincy is a national heritage and a valued institution, particularly in the rural areas of Lesotho. Historically, chiefs have exercised multifaceted functions. Most important of these are allocating arable and grazing land, resolving conflicts and maintaining the cohesion of the community. However, the powers of traditional chiefs were steadily eroded after the local government structure was introduced. Nevertheless, they are still a potent channel for communication and popular mobilisation. The law that defined the authority of the chiefs was not repealed when the Local Government Act was introduced in 1997. The two systems operated side by side, although, in an effort to create a symbiotic relation between the two organs, the chiefs, who are elected by their peers, were made members of the councils. To bring them closer, joint training sessions were held. Stakeholders welcomed this policy, but they were wary that, despite the good intentions, a more precise delineation of the respective responsibilities and modes of cooperation is needed. A major point of contention will be the authority to allocate land. Until the two institutions are effectively harmonised, it will be difficult to create a united voice that will echo the wishes of communities. In the circumstances, the decentralisation and modernisation efforts may not realise their intended objectives. A clear, but careful, delineation of the responsibilities is urgently called for.
789. Effective communication is the key to building trust and to bridging the information and feedback gaps that were revealed by the returns to client opinion surveys and the discussions held with stakeholders on their participation in the development process. The objective of a communication strategy should be to keep society fully informed about the challenges, development options and content of policies and their intended outcomes. It should also facilitate dialogue between the government, communities and the nation. It is important to increase the flow of information in general and to target the relevant groups in order to ensure that individuals and communities participate in public life. Effective methods should be found to get regular feedback from stakeholders. The communication strategy for Lesotho should be to use new techniques and technologies and to take full advantage of the high literacy rate in the country.

iii. Recommendations

790. The APR Panel recommends that Lesotho:
- Develop an effective communication strategy. (*Government of Lesotho*)
 - Define the separate and joint responsibilities of local councils and traditional chiefs more clearly and carefully. (*Government of Lesotho, traditional authorities*)
 - Enact legislation on land issues to outline responsibilities and guarantee opportunities for land use and investment. (*Executive, legislature*)
 - Increase effective community participation in policy development, implementation and monitoring, and regularise the stakeholder consultation process. (*Government of Lesotho, civil society*)



CHAPTER SEVEN

7. Crosscutting issues and conclusion

7.1 Introduction

791. Chapter 1 dealt with the African Peer Review Mechanism (APRM) process in general and the APRM arrangements in Lesotho. Chapter 2 introduced the political background and socioeconomic context of the country. Chapters 3 to 6 focused on a detailed review of governance in Lesotho. They covered the four thematic areas of the APRM: democracy and good political governance, economic governance and management, corporate governance, and socioeconomic development.
792. The thematic review revealed a number of recurrent issues that impact on all areas of governance and which require holistic interventions to find solutions. This concluding chapter focuses on the nine crosscutting issues identified during the review of Lesotho. These include:
- Implementing codes and standards.
 - The declining population growth.
 - Gaps in service delivery and policy implementation.
 - Decentralisation.
 - Public accountability and corruption.
 - Overdependence on aid.
 - Unemployment and migrant labour.
 - The Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) pandemic.
 - Lesotho as an enclave political economy.

7.2 Crosscutting issues

7.2.1 Implementing codes and standards

793. Several international and regional standards and codes have been approved by participating African countries to guide governance reform in the four thematic areas of the APRM. A country's governance aspirations are reflected in the number of these standards and codes that it signs, ratifies and domesticates. If the governance standards and codes are well managed, there should be a central location where up-to-date information can be found.



794. According to the Country Self-Assessment Report (CSAR), Lesotho has acceded to most of the international and regional governance standards and codes, outlined in the APRM questionnaire under each governance thematic area, but has not provided detailed information on the extent of ratification and domestication of the standards and codes. The Country Review Mission (CRM) also had difficulties establishing the status of implementation of most of these codes and standards. In the CRM's interactive consultations with stakeholders, there were claims about the existence of an up-to-date treaty list, but subsequent efforts to obtain it were fruitless. It is therefore important to clarify the roles and responsibilities for managing the governance standards and codes effectively.
795. These roles are distributed among:
- The Ministry of Foreign Affairs and International Relations. This ministry is the key to coordinating the process, because implementing the international standards and codes involves external stakeholders and commitments. The ministry monitors whether the country is meeting its obligations to report on the performance and achievement of the standards and codes.
 - Sector ministries, which are responsible for developing the policies and implementing the programmes relevant to the standards and codes relevant to each sector. The Ministry of Finance and Development Planning (MoFDP) is responsible for economic governance and management. The social development ministries, such as Health and Social Welfare and Education and Training, handle the standards and codes that are relevant to their sectors. The sector ministries are responsible for determining whether the standards and codes require parliamentary approval (treaties) and/or legislation, and for ensuring that they are presented to Parliament.
 - Parliament, which ensures that all treaties signed by the country are domesticated by enacting relevant laws.
796. The fact that it was not easy for the CRM to get a comprehensive treaty list points to the need to facilitate and build capacity in the Ministry of Foreign Affairs and International Relations to fulfil its mandate of coordinating the signing, acceding, ratifying, domesticating, implementing and reporting on the governance standards and codes. Sector ministries also have to be empowered to keep up to date and to implement the codes and standards relevant to their sectors. The capacity of Parliament to pass relevant legislation to domesticate treaties and to monitor the implementation of the various obligations also has to be increased. Above all, it is necessary to establish a central depository and database of all protocols and treaties signed to facilitate domestication, monitoring and follow-up.

7.2.2 The declining population growth

797. Lesotho's declining population growth is unique for a developing country. Whereas most countries are experiencing moderate growth in population, the country's growth rate is barely positive. In a preliminary analysis of the 2006 census,³¹ the Bureau of Statistics (BOS) concluded that, though

³¹ The law requires that the results of the census be published within two to three years after the census is held.



the full analysis of the census results is still awaited, it appears that the country is experiencing a drastic decline in population growth. The 2006 population is estimated at 1.88 million, about 76.2 per cent of whom live in rural areas. The results indicate that Lesotho is moving towards a shrinking population. If one compares the 2006 with the 1996 census figures, the growth rate between the censuses is considerably low at 0.1 per cent.

798. The possible causes of the decline in population growth are that:

- The fertility rate has been falling since 1986, when it was 5.3 per woman. It dropped to 4.1 in 1996 and further to 3.5 in 2004. The decline in the total fertility rate has been accompanied by a downward shift in the age-specific fertility rates. It indicates a trend to delay reproduction to an older age.
- Mortality seems to be rising. Life expectancy at birth dropped from 59 years for both sexes in 1996 to 42.4 in 2006.
- The HIV and AIDS pandemic hit hard, particularly during the last decade or so.

799. All of the three factors exacted their toll on the population. If present trends continue, Lesotho will be faced with the ominous reality that its population will stop growing or may even decline to below the replacement level. These prospects should concern the country. Urgent policies to reverse these trends in population growth rates are called for. Society at large should be alerted to the possible adverse socioeconomic implications of the drop in population growth rates, particularly when the country's population is already small.

Table 7.1: Selected demographic indicators for Lesotho, 1976, 1986, 1996, 2006

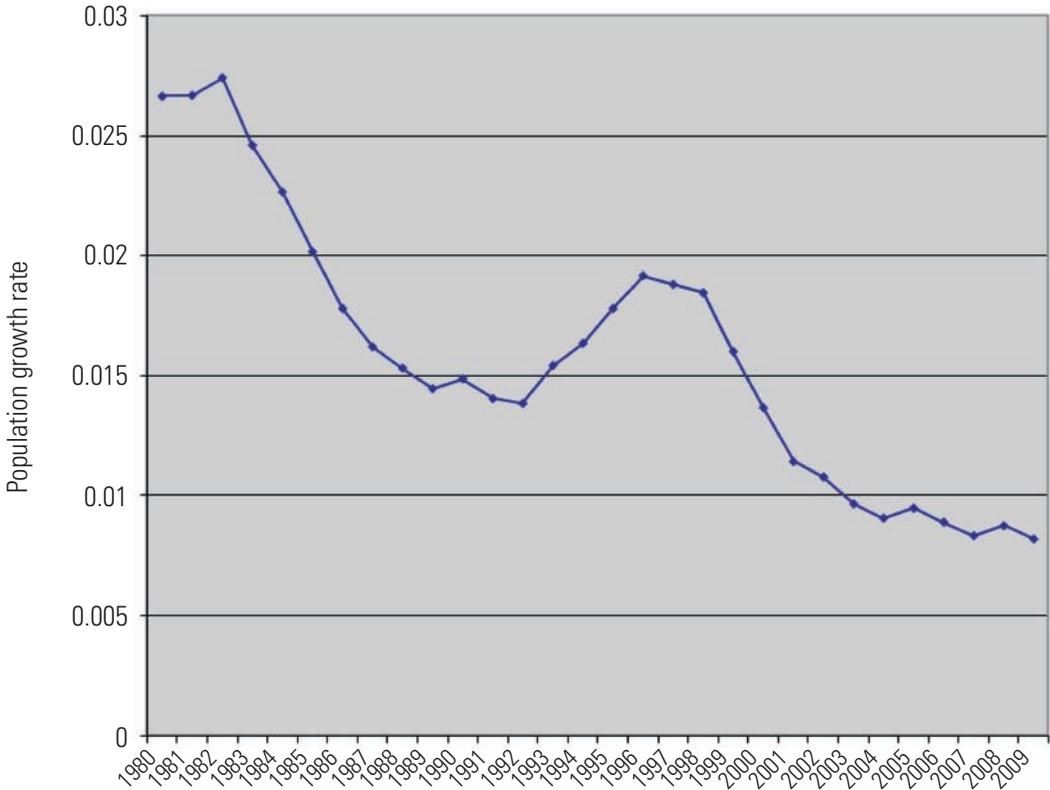
Indicator	1976	1986	1996	2006*
Population (millions)	1.2	1.6	1.76	1.88
Growth rate between censuses (per cent)	2.3	2.6	1.5	0.1
Density (population per km ²)	40	53	61	62
Per cent urban	11	14	17	24
Crude birth rate	38 to 40	37	30	29**
Crude death rate	16 to 18	11.6	12.8	16.9**
Total fertility rate	5.4	5.3	4.1	3.5
Infant mortality rate (per 1,000 births)	113	85	74	70**
Life expectancy (in years)	51	55	59	42.4
* Preliminary figures.				
** Based on data from the Population Division of the Department of Economic and Social Affairs of the United Nations (UN).				

Source: BOS: 1976, 1986, 1996, 2006 census reports.



800. The average household size in 1996 was 5.0. In 2006, it was 4.2. More than half of Lesotho's population is female, a high proportion of whom are educated. Experience suggests that there is an inverse relationship between the level of education of women and the number of their offspring. Women are now having half the number of children their mothers used to have in the early 1960s. This may be because of the high and increasing use of contraceptives, which rose steeply from about 6.9 per cent in 1986, to 23.1 per cent in 1996 and to 41.2 per cent in 2004.

Figure 7.1: Annual trends in population growth (in per cent), 1980 to 2009



Source: Data from the Population Division of the Department of Economic and Social Affairs of the UN.

801. It is therefore recommended that Lesotho strengthen its National Population Policy to incorporate, among others, policies and measures to reverse the declining trends in population growth rates. It should draw on the experiences of other countries which faced similar situations. The policy should also focus on improving child and maternal health in particular and consider the changes in population dynamics in order to change social and cultural behaviour. Lesotho is also encouraged to develop child and child-bearing support plans and community-based, child-bearing support centres and to improve day-care services for sick children and family-type day-care services. It is also necessary to develop a comprehensive framework to help balance work and child-bearing responsibilities.



7.2.3 Gaps in service delivery and policy implementation

802. In most parts of the country, the Basotho feel remote and disconnected from government. It takes too long to get services. Getting passports takes a long time. The payment of teachers' salaries and the provision of most services involve long periods of waiting. Service delays result in higher transaction costs. Even in cases where people are located within reach of government offices, they are outraged by the time that is needed to get critical services. They feel neglected and impoverished. Failures to process immigration papers timeously lead to losses of business opportunities and, therefore, affect livelihoods. The judicial system is clogged with pending cases. Many of them are carried over from the distant past, justifying the adage that 'justice delayed is justice denied'. There are many bills waiting to be presented to, and passed by, Parliament. There is inadequate financial accounting. The auditor general's reports are full of queried expenditures and the Directorate on Corruption and Economic Offences (DCEO) of the Public Accounts Committee (PAC) has been unable to reconcile the discrepancies. The concerns of the country are unequivocal: public service bottlenecks must be dealt with decisively and rapidly.
803. Inefficient service delivery by departments is caused by a number of factors. These include lack of technology, poor management, a poor working environment and low staff morale. The key concerns of public servants include poor remuneration, which is not competitive in many cases, does not reflect the market and is not tied to performance. These factors have contributed to a high staff turnover in some key sectors, leaving the government ill-equipped. Service delivery is also constrained by confusion about responsibilities, as many roles overlap between ministries, departments and divisions. The result is continuing power struggles and conflicts between departments. Poor coordination within government leads to poorly integrated planning.
804. For those seeking work outside the country, and sometimes in the industrial sector of the country, a passport is critical for travel and identification. However, there are significant delays in issuing passports. Unsatisfactory service delivery in the Department of Immigration is caused by the lack of technology, red tape in procurement procedures, administrative bureaucracy, unfavourable work conditions and a shortage of staff. Failure to attend to these problems effectively and decisively over a long period of time has resulted in a backlog of service delivery.
805. Immigration laws and regulations on visas and work or residence permits should recognise the urgency and flexibility called for by both foreign investors and tourists. The legal framework that governs the issuing of visas, residence permits and citizenship is the Aliens Control Act of 1966. This Act sets the conditions for granting visas or deportation orders and it establishes what constitutes a lawful and unlawful presence in Lesotho. However, it is outdated, has very serious shortcomings and requires urgent review.
806. There is a great need for the effective and efficient delivery of judicial services. The large backlog of cases in the judiciary is a major diagnostic indicator that citizens are not getting justice timeously. It is urgent that this backlog of cases is cleared. This may require recruiting a team of additional judges, on a temporary basis for three years, who would then be phased out of the system. To avoid future backlogs, it is necessary to accede to the demands for judicial services, for the appropriate numbers of judges and magistrates, and for the caseload to be reduced to meet service delivery expectations. The law that bans using Sesotho as a court language should be abolished.



807. It is necessary to identify and review obsolete legislation, consolidate all applicable legislation and publish it in a set of convenient and accessible volumes of the laws of Lesotho. Seventy-two High Court decisions between 2002 and 2007 and 114 Court of Appeal decisions between 2000 and 2008 have been posted on a website operated by the Southern African Legal Information Institute (SAFLII). This has facilitated access to court decisions, but online access is being hampered by the inadequate supply of computers and Internet access to judges and magistrates who need them to improve the delivery of judicial services.
808. CRM consultations with the judiciary revealed that, although it is supposed to be independent under the constitution, it actually is not. The executive should cherish and proclaim publicly the importance of judicial independence as a cornerstone of the rule of law and a just society in which no one is above the law. This would build public respect for judges and magistrates and the judgments they deliver. The status of judges and magistrates has been undermined by allowing their terms and conditions of service to erode when the salaries of government staff were reviewed and adjusted upwards. The CRM recommends an urgent Act that grants financial autonomy to the judiciary.
809. About 80 per cent of the Basotho live in rural communities. They account for most of the poor people in the country. Thus any strategy for sustainable growth and development and poverty reduction must target this group. The effective delivery of services to rural communities must be a priority of the government and its development partners. The sources of income in rural areas are mainly livestock, grazing, subsistence farming and income earned from migrant workers' remittances. The challenge of designing an effective rural service delivery system consists of conducting service delivery diagnostic surveys to determine the appropriate and demand-driven services to meet the goals of poverty reduction strategies, Vision 2020 and decentralisation.
810. It is imperative to determine service delivery standards that must be met if rural communities are to be satisfied with service providers, such as the field staff of line ministries, chiefs, and the staff of local councils. Service providers (of extension, health and education services, among others) should be assigned clear duties to deliver their services and their performance should be evaluated to ensure that those standards are met. Service delivery performance management reforms have been introduced in a number of African countries. The government of Lesotho, with the assistance of its development partners, has been piloting such systems in the following ministries:
- The Ministry of Home Affairs and Public Safety, and of Parliamentary Affairs, to assist it to reduce the processing time for passports from two years to two weeks.
 - The MoFDP, to assist it to reduce the waiting time for paying terminal benefits from six months to zero.
 - The Ministry of Health and Social Welfare (MoHSW), to assist it to increase the efficiency of Queen Elizabeth II Hospital, starting with reducing the waiting time at the Emergency Department from eight hours to 30 minutes.
811. The service delivery performance management system is being extended to four other ministries: the Ministry of Education and Training (MoET) (for the payment of teachers); the MoFDP (for the payment of suppliers); the Ministry of Local Government and Chieftainship (MoLG) (for the processing of lease documents); and the Ministry of Public Service (for the recruitment process).



812. Another area where service delivery is believed to be poor is in budget implementation. It is common to read about annual, unspent balances in government budget reports. They give a false impression of fiscal prudence by the government. In reality, it is not fiscal prudence; it is an inability to implement the budget efficiently. It happens almost every year and several factors explain it. One is the shortage of human and institutional capacity in virtually all departments. The other is poor budget preparation. Financial provisions are made in the budget for projects which do not have prior project preparatory studies. Thus, when a budget allocation is made, it is realised that the project cannot take off because there is no preparatory work. The result is an unspent budget balance at the end of a year. The government is aware of this problem. It has commissioned a study to examine how to improve budget preparation and how to increase institutional and human capacity in departments.
813. The CRM finds inefficient and ineffective delivery of public services and policy implementation to be a major weakness of governance in Lesotho. It requires urgent and determined remedial action. The pilot schemes that have been undertaken to re-engineer services so that they specify standards of service provision should be reviewed to:
- Consider extending them to the rest of the public service.
 - Move towards establishing citizen charters that clearly inform citizens how long it will take to deliver specified services.
 - Affirm contractual duties or obligations to meet the service delivery standards.

7.2.4 Decentralisation

814. The main reason for decentralising is to enable rural and urban communities to determine their own affairs and develop themselves. The other reasons are to fulfil government commitments to good governance, deepen democracy, empower communities, promote pro-poor growth and deliver quality services to all areas. Decentralisation consists of devolved local councils and delegated administration.
815. The legal and policy frameworks for decentralising are the constitution of Lesotho (1993). It guarantees citizens the right to participate in government and empowers Parliament to establish local authorities. The MoLG was established in 1994. The Local Government Act of 1997 and the Local Government Elections Act of 1998 provide the legal framework for the establishment and functioning of local authorities. Other frameworks that justify the existence of the councils are Vision 2020, the Poverty Reduction Strategy (PRS), the Millennium Development Goals (MDGs) and the Public Sector Improvement Reform Strategy.

Local councils

816. Lesotho is divided into 10 districts: Maseru, Butha-Buthe, Leribe, Berea, Mafeteng, Mohale's Hoek, Quthing, Mokhotlong, Thaba-Tseka and Qacha's Nek. The capital and principal commercial centre is located in Maseru district. Each district has a district council, while Maseru also has the only city council. There are 128 community councils at the lowest tier.



817. Local councils are empowered to raise revenues, promote socioeconomic development and provide services. Their functions involve controlling and administering all matters as mandated. These include, among others, natural resources; land and site allocation; minor roads; land use and grazing; village water supply and maintenance; and the provision and regulation of markets and burial grounds.
818. Community councils are the lowest-level local government structures and operate at the grass roots. Each community council is a corporate body with between nine and 15 elected councillors and two chiefs nominated by the chiefs in the relevant area. District councils manage community councils because of inadequate human capacity and financial resources.
819. The district council is a semielected corporate body with executive authority. It comprises a minimum of 21 and a maximum of 41 members. The chairperson is elected. The other members include all the chairpersons of the community councils in a district, at least one member elected from each community council, and two chiefs elected by chiefs in the district's community councils.
820. Maseru is the only municipal council. This is a corporate body formed from a cluster of villages within the Maseru urban area. It has 15 councillors, including three chiefs nominated by other chiefs within the council boundaries. The Maseru Municipal Council performs the same functions as a district council.
821. Each district council is administratively headed by a council secretary or town clerk, as the case may be, as its chief executive officer (CEO). The council secretary's responsibilities are to arrange council meetings and ensure that minutes and reports are compiled and presented. The council secretary or town clerk manages the staff employed by the local authorities.

District administration

822. Each district has a district administrator who is appointed by the minister of local government and chieftainship in consultation with the prime minister. The administrator represents the central government and is responsible for overseeing the functioning of all central government staff and ministries. The district administrator is responsible for planning, implementing policies and controlling district operational resources. The district administrator is answerable to the minister on political issues and to the principal secretary on administrative and technical issues.
823. There is a District Planning Unit (DPU) in each district. It is a technical team comprising all the departments functioning in the district. It supports the district and community councils with their planning functions. It is accountable to the district administrator, who ensures that the necessary financial and other resources are made available to the DPU on time so that it can carry out its roles.
824. Each district has a District Development Coordinating Committee (DDCC) which considers draft development plans for the district prepared by each council, coordinates such plans into a composite district development plan, and approves such plans. It comprises elected representatives, traditional chiefs and ex officio members from the council. The DDCC is chaired by an elected member who is not an ex officio member.



Capacities of local councils

825. Although the structures have been established, the councils lack human capacity and financial resources. District council staff also service community councils. The councils have the power to raise revenues, but there are often no viable sources of revenue in council areas. There is, therefore, complete dependence on central government grants for implementing policies and delivering services.
826. The CRM often heard that service delivery has not improved, even after the introduction of the reformed local government system. The failure of fiscal decentralisation, the lack of institutionalisation and shortages of human and financial resources were largely blamed for the shortcomings in the local councils.

Accountability of local councils

827. The accountability of the local councils is problematic. Although councils are to be audited twice a year, this is yet to happen.

Public participation

828. The local government elections of April 2005 increased opportunities for public participation, because they allowed people to choose councillors freely. However, only 25 per cent of the electorate turned up. Nevertheless, the representation of women on local councils jumped to 58 per cent. It exceeded all expectations.
829. Lesotho has not achieved public participation in the development planning process. Pro-poor service delivery depends on a participatory planning process that includes community and district structures. Decentralisation was supposed to alter the manner of planning from a decentralised model, previously dominated by central government ministries, to one that would be community-centred. The roles, responsibilities and procedures for planning, budgeting, allocating funds and implementing projects were therefore meant to reflect a pro-poor, community focus. That is why the DPU and the DDCC were devised as mechanisms to support and service councils.
830. The reality is that local-level planning within community and district councils is weak and needs urgent attention. There is a need for sustained capacity building of community and district councils, as well as local communities, to better identify and prioritise needs. Communities' capacity to actively participate in the implementation and monitoring of development activities should also be enhanced.

Challenges to decentralisation

831. There are significant challenges to decentralisation. The first is the inadequate capacity of stakeholders, which include councillors, staff of the councils, line ministries at district level, and communities. The stakeholders' capacity to fulfil their functions is inadequate, if not absent. This is especially so in crucial functions like development planning, implementing, monitoring and evaluating.



832. The second challenge is to implement fiscal decentralisation. The strategy for fiscal decentralisation and financial accountability has not been developed. The arrangements for financing local council development plans and councils' means for delivering services are thus not established.
833. The third challenge is the inadequacy of resources for developing district and community infrastructure, including minor roads, bridges and village water supplies.
834. The fourth challenge relates to the unresolved tensions between the newly created councils and traditional chiefs, especially in the area of land and site allocation. The tensions are caused partly because the respective functions of the councils and the chiefs have not been delineated, and especially because the Chieftainship Act of 1968 and the Local Government Act of 1997 have not been harmonised with regard to the land issue. It is necessary to enact land legislation and to amend or harmonise other legislation that would clear up the confusion about land allocations that currently abounds.
835. In conclusion, the process of decentralising requires:
- That the capacity of all stakeholders (councillors, council staff, central government employees at district level, community leaders, and civil society representatives) be developed.
 - That fiscal decentralisation be systematically structured, that district and community council planning and budgeting functions be elaborated and that monitoring and evaluation systems be established.
 - That there be concerted efforts to promote genuine, broad-based participation in local governance and development initiatives. This can be achieved by identifying grass-roots systems for empowering communities.
 - That the legal framework for decentralisation be harmonised in order to clarify the functions, responsibilities and roles of the councils and chiefs, especially with regard to allocating land.

7.2.5 Public accountability and corruption

836. Public accountability entails public officials, who have been given responsibilities, being answerable for their decisions and actions to citizens. There is a close connection between accountability and transparency. Transparency refers to the availability of relevant, accurate and timely information to those entitled to receive it. In public accountability, this would therefore mean that the information on the duties and responsibilities of the public officials, and the manner in which their duties are performed or delivered to the citizens, is available.
837. The constitution of Lesotho defines the relationship of public institutions to the Basotho people. It also determines, to a large extent, accountability systems and procedures in their various forms. These include political, administrative and financial responsibilities. The unique monarchical constitution of Lesotho presents complex challenges to public accountability, as traditional and Western systems and procedures coexist.



838. Political accountability is supposed to be exercised through the electoral process. This gives the elected national leaders the mandate to rule and is an expression of the electorate's confidence in their leadership. The system of decentralisation extends this relationship to district and community level. Councillors are mandated to be the political leaders and must account to the communities. Alongside this is the traditional system of chieftainship. This is hereditary, but nevertheless requires that the chiefs be accountable to their subjects. Administrative accountability refers to being answerable to the public for administrative decisions and actions. Financial accountability involves being answerable for using public money that is entrusted to state functionaries for implementing public policies.
839. Corruption is the abuse of public office and the power it brings. There is a close relationship between accountability and corruption. The lack of accountability and transparency creates fertile conditions for corruption to breed and thrive.

Legal and institutional frameworks

840. There are legal frameworks and institutions that exist for ensuring public accountability and for combating corruption in Lesotho. The Prevention of Corruption and Economic Offences (PCEO) Act of 1999 established the DCEO. It is an anticorruption bureau with the power to investigate and prosecute. The Act introduced a code of conduct for public officials and requirements for the public disclosure of assets and interests. There is also the Office of the Ombudsman. It is responsible for administrative justice and fairness. The Police Complaints Authority is also there to make sure the police service is accountable. The PAC of Parliament is supposed to exercise oversight and scrutiny over public sector expenditures, which are based on reports from the accountant general and the auditor general. The Office of the Auditor General (OAG) checks and verifies the correctness and authenticity of public expenditures. The judicial system is also available to interpret the law and enforce justice. The provision for regular five-year elections also provides the basis upon which citizens can hold elected leaders accountable.

Financial accountability

841. Reports that there is no public financial accountability abroad in Lesotho. The auditor general and the minister of finance and development planning have acknowledged the poor state of official accounts and denounced the lack of public service accountability. It is on record that the accounts of the ministries and departments have been qualified for about 30 years. In addition, where there is public financial accountability, normal procedures and standards are not normally followed by public sector entities. Audits also become useless when auditors cannot untangle the chaos. The lack of public financial accountability is, therefore, a historical fact. The auditor general's reports point out that public accounts are in disarray.
842. Public accounts have been qualified for the past 30 years because of material uncertainties within the accounts and limitations of scope regarding the regularity of expenditure. The principal reasons that have been given for the disclaimers are noncompliance with international accounting principles, such as those defined by the International Public Sector Accounting Standards (IPSAS) and those issued by the Government of Lesotho Financial Information System (GOLFIS). GOLFIS omits all of the government of Lesotho's 140 bank accounts. This casts doubt on the accuracy of



the figures reported in GOLFIS and whether the government of Lesotho is aware of its actual cash position.

843. The auditor general also raised concerns about the significant risk of material fraud, which might go undetected because of unreconciled bank accounts. In an effort to improve public accountability and transparency, the government of Lesotho introduced the automated, Integrated Financial Management Information System (IFMIS) to its financial operations on 1 April 2009. This system combines preparing and executing budgets, accounting, financial management and reporting. It is hoped that IFMIS will offer real-time accounting, reduce reporting time and hopefully ensure that financial reports are produced in good time for regular audits to take place. The government of Lesotho also believes that IFMIS will assist to combat corruption and other fraudulent activities.
844. It was also reported that many public institutions do not have up-to-date audited accounts and that the backlog is huge. Without up-to-date audited accounts, the auditor general has very little to work with. The many cases of unauthorised expenditure point to a much wider problem, the proportions of which have yet to be fathomed. There is actually debate on whether to write off past unaudited accounts and start from scratch. The fact that expenditure controls are weak implies that the environment is conducive for corruption to take root.
845. The reality is that the institutions that are supposed to exercise public financial accountability are dysfunctional. Accountability in the use of public finance, auditing, and reporting is grossly inadequate. In addition, although Parliament officially allocates budgets and authorises expenditures, it is unable to oversee the expenditure of the executive and other arms of government.

Public accountability

846. Public financial accountability is a real problem in Lesotho. Official reports of the poor state of public accounts and the general lack of financial accountability have been given by none other than the auditor general and the minister of finance and development planning. The OAG does not have sufficient human capacity to carry out its functions effectively. It lacks autonomy and has no powers of enforcement. Disciplining and prosecutions are reserved for other institutions over which it has no authority or control. The OAG cannot, therefore, ensure that public officers take responsibility for expenditures or for adhering to sound principles of accounting. Likewise, PAC may examine and question, but cannot prosecute or discipline, errant public servants. It is a toothless watchdog, especially in a situation where public accountability is not usually practised.
847. The provision of public services also suffers from the lack of accountability of public servants. This negatively affects public service performance. The problem is compounded by the coexistence of traditional and state service delivery systems. The mandate for land allocation, for example, is vested in both chiefs and local councils. This is confusing to land applicants who still hold their chiefs in high esteem and regard them as custodians of the land. The roles and responsibilities of public officials are not clear cut and understood. This creates a loophole for the accountability of public officers. Most Basotho also do not seem to understand the roles and responsibilities of local authorities vis-à-vis those of traditional chiefs. Therefore, the challenge is for the government to clarify the respective roles and responsibilities of the councils and the chiefs. This could assist



in making service delivery more efficient and effective. At the national level, there is significant underperformance in implementing public policies, projects and programmes. This can also be attributed to the low level of accountability of the government and its agencies; hence public confidence in both the national and local government councils is low.

848. Lesotho is a signatory to numerous regional and international treaties, conventions, covenants and other agreements. However, the country has a dismal record when it comes to ratifying, domesticating, reporting on and implementing them. Therefore, commitments that are made are not necessarily fulfilled. This makes Lesotho's accountability to regional and international bodies questionable.
849. The failure of public financial accountability is repeated in the inability to perform other public functions. There is an absence of accountability in implementing government policies and fulfilling international commitments. This lack of public accountability is manifested in the absence of a serious effort to implement official policies, deliver services at local council levels, and to fulfil commitments to regional and international treaties, covenants and conventions. This raises questions about the political commitment of the government to fulfil its domestic and international obligations.

Corruption

850. The perceptions of corruption are also strong. Corruption is perceived to exist in the public sector, in political practices, and in the private sector. Public sector corruption is said to permeate the national government, legislature, law-enforcing officials and local government. It includes council officers, health workers, school principals and teachers. Public sector procurement is regarded as the most active area of corrupt practices. In short, the CRM finds that there were widespread stakeholder perceptions that corruption permeates every aspect of Lesotho's existence. It is quite clear to the CRM that the DCEO has an uphill task to combat corruption. One limitation is that the DCEO lacks the requisite human and other resources to tackle complex economic crimes, such as money laundering, which require special skills and expertise. As a result, it relies more on informers than its own investigative activities. It does not have the power to prosecute, but relies on the director of public prosecutions. The case overload in the courts of law, as well as the backlogs that the courts have, imply that the DCEO's disposal of corruption cases is also undermined. The DCEO is also constrained by the lack of autonomy, because it is a unit within the Ministry of Justice and Human Rights and Correctional Services. It is therefore necessary to turn the DCEO into an autonomous anticorruption authority answerable to Parliament. Further, it lacks adequate resources to deal with cases of corruption effectively.
851. Political corruption was also widely blamed for the persistent intraparty and interparty squabbles that are characteristic of Lesotho's politics. The post-2007 resurgence of interparty tensions, which is centred on disagreement over the allocation of proportional representation in the National Assembly, was largely blamed on political corruption.
852. In tackling corruption and improving public accountability, Lesotho should consider overhauling the public accounting, auditing and reporting systems. The practice of keeping books of account and of preparing regular (monthly, quarterly and yearly) financial reports must be enforced and complied



with. Clarifying the roles and responsibilities of service delivery institutions, building their capacities, and adequately resourcing them will also improve efficiency and public accountability. With regard to corruption specifically, it is necessary to build the capacity of the anticorruption agency and streamline its functions so that it can execute its mandate effectively for the good of the country.

7.2.6 Overdependence on aid

853. Along with other poor countries in the world, Lesotho has relied extensively on financial support from the international community to fund its development. The inadequacy of domestic resources requires that domestic resources are supplemented either by external loans or external aid. A country is thought to be overly dependent on aid if external aid averages about 15 per cent of its gross domestic product (GDP). This has been the case with Lesotho over the years.
854. Receipts from Southern African Customs Union (SACU) revenue have dominated Lesotho's revenue landscape over the years. They account for an annual average of 50.1 per cent of total revenue between 2002/2003 and 2007/2008. Tax and nontax revenue accounts for the balance. In order to finance development projects, the government has tried to fill the gap either by borrowing domestically or externally from abroad. But there are limits to both types of borrowing – excessive borrowing from the private sector will crowd it out and increase macroeconomic instability, while Lesotho, as a poor country, is constrained by the credit policies of the multilateral development banks. The situation leaves donor grants and aid as the most viable options for filling the resource gap.
855. Indeed, this situation has made external financing, especially from nondebt-generating sources, very important to Lesotho. Between 2002/2003 and 2008/2009, the share of external financing in government's recurrent spending was an annual average of 10 per cent. However, for capital spending, it was 51.2 per cent for the same period. This is unusually high capital expenditure, because of its important implications. It makes Lesotho very vulnerable to developments in the world economy, particularly in donor countries. When viewed from this perspective, the current slowdown in the world economy is likely to affect all developing countries adversely, including Lesotho with its high dependence on aid. A decline in aid receipts is likely to lead to a considerable slowdown in capital generation in the country and that would undermine future development prospects.
856. The high dependence on aid, especially that which finances capital generation, could also pose long-term risks for Lesotho in terms of promoting policy for financing sustainable development and effective development planning. In order to reduce the potential vulnerability arising from overdependence on aid, the government of Lesotho should try to broaden the tax base and improve efficiency in tax collection. As for the latter, the role of the new Lesotho Revenue Authority (LRA) should help to make tax collection efficient. Broadening the tax base will require sustained economic growth, which, in turn, will increase individual and company incomes. In such an improved economic situation, an increasing number of individuals and companies can be brought into the tax bracket. In the long term, such a strategy will assist to reduce the country's dependence on aid.



857. As desirable as aid is in supplementing domestic resources, care should be taken to ensure that a country's development agenda is not driven by donors' interests. A government must retain its ownership of the development agenda, which it should design and implement rather than have these tasks done by donors. It is also necessary to coordinate donor activities and to improve the predictability and effectiveness of aid. This is one of the key principles of the Paris Declaration (2002) on Aid Effectiveness and the Accra Agenda for Action, adopted at the Third High Level Forum on Aid Effectiveness, held in Accra, Ghana, between 2 and 4 September 2008.
858. The declaration contains actionable and time-bound commitments with clear targets around five core principles: ownership, alignment, harmonisation, mutual accountability, and managing for results. The Accra Agenda for Action calls on partner countries to strengthen the ownership of their development programmes by strengthening the involvement of parliaments and other nonstate stakeholders. Donor countries undertook to increase transparency in aid delivery and procurement systems and to work closely to arrive at a limited set of mutually agreed conditions based on national development strategies. This would reduce the use of conditionality in development assistance.
859. Aid volatility is another serious challenge to aid effectiveness, as it can undermine development planning. If the effect of aid volatility is factored in, data show that aid flows should be discounted by between 15 and 20 per cent. Therefore, Lesotho and other African countries that receive aid should urge donor countries to honour their commitments to improving aid by providing them with regular, timely and indicative information on planned support in the medium term.
860. Overall, Lesotho should continue to build absorptive capacity and work with donors to increase aid flows. Given the number of donors, a strong focal point is needed in government to coordinate donor activities in order to avoid duplicating efforts and/or financing projects or programmes that are not government priorities. Usually, each donor has its own rules and procedures for procurement and other issues related to aid. In order to avoid overburdening the limited capacities in ministries, it is necessary to streamline these procedures and practices. Finally, care must be taken to avoid 'tied aid', as this tends to weaken the effectiveness of aid. Special mention must be made here of using the technical staff of donors. This does not permit local human and institutional capacity to be developed. It should, therefore, be carefully managed in order to ensure that this does not happen.

7.2.7 Unemployment and migrant labour

861. The African Peer Review (APR) Panel notes the priority that the government has attached to tackling the problem of growing unemployment. Government has rightly decided to focus on creating jobs through employment stimulus measures. "The economy faces rising unemployment as a result of global forces outside our control. Basotho working in South African mines are being laid off, and local textile and clothing manufacturers are now retrenching workers" (Budget Speech 2009).
862. High unemployment, open or hidden, has characterised Lesotho's economic and social scene for a long time. It is a phenomenon that cuts across sex and regional divides. While data reported by the Household Budget Surveys (HBSs) for 1994/1995 and 2002/2003 indicate that unemployment



fell from 28.7 per cent to 23.2 per cent between 1994/1995 and 2002/2003, current evidence is that, as a result of the global financial crisis and economic recession, the unemployment rate is estimated at 40 per cent at the moment.

Table 7.2: Unemployment rate, 1994/1995 to 2002/2003

Category	1994/1995	2002/2003
Overall	28.7	23.2
Male	20.8	14.7
Female	7.9	8.5

Source: HBSs, 1994/1995 and 2002/2003, MoFDP.

863. Historically, labour migration of the Basotho to South Africa reduced unemployment in Lesotho. The migrant-labour system has covered a number of sectoral activities in which the Basotho are employed in South Africa. These are predominantly diamond and gold mining and agricultural farming. The numbers peaked in 1989/1990, when there were between 124,000 and 127,000 workers in the mining industry. These, however, fell progressively in subsequent years to reach about 50,100 in 2007. Future trends will depend primarily on the international demand for minerals, on developments in the labour market in South Africa, and on South Africa's immigration policies.
864. The large number of retrenched Basotho migrant workers poses economic and social stresses for Lesotho. It has compounded the unemployment problem and deprived the country of regular flows of income and revenues for the miners' families. These have had significant macroeconomic implications (see table 7.3). Remittances recently comprised between 20.9 and 29.4 per cent of GDP. As a proportion of exports, imports and government revenue, their significance can hardly be underestimated.

Table 7.3: Economic significance of Basotho miners in South Africa

	2003	2004	2005	2006	2007
Total average number employed (in thousands)	61.4	58.0	50.8	50.2	50.1
Percentage change	-1.2	-5.5	-12.4	-1.2	-0.2
Total earnings (million loti)	2,364.8	2,442.1	2,196.2	2,694.3	3,500.7
Miners' remittances (million loti)	1,737.9	1,750.4	1,614.3	1,983.0	2,576.7
Miners' remittances (percentage of total earnings)	71.3	73.5	73.5	70.6	70.6
Remittances as percentage of imports	23.3	21.6	19.4	21.4	22.8



	2003	2004	2005	2006	2007
Remittances as percentage of exports	48.9	41.1	39.0	41.9	45.5
Remittances as percentage of grant revenue	49.6	43.1	36.0	31.1	36.9
Remittances as percentage of GDP	23.5	22.7	20.9	23.7	29.4

Source: Calculations based on data from the Central Bank of Lesotho (CBL) and International Monetary Fund (IMF).

865. Indeed, while migration is a loss of human capital for Lesotho, the regular flow of remittances from migrant labourers, although significantly lower than in the previous four decades, has significant direct and indirect welfare and development benefits for the country, especially in reducing poverty. The recipients are generally very dependent on this source of money to augment income, to increase food security and to meet other needs. In particular, migrant-labour income remittances to family members in Lesotho have influenced agricultural production in terms of input purchases. Retrenchments, and the resultant loss of the ability to buy inputs in the affected households, have adversely affected agricultural production in other sectors as well. The social costs of males' absence for prolonged periods have been judged as devastating.
866. At the national level, Basotho migrant miners in South Africa have a demonstrated potential to support the domestic economy. Recruitment of the Basotho migrant labour force in South Africa is facilitated through the Employment Bureau of Africa (TEBA). TEBA has offices in South Africa and in various districts in Lesotho. Miners are required to deposit a significant proportion of their earnings in individual savings accounts they hold with TEBA.
867. A deferred payment system was established in 1974 to underpin the transfer and management of miners' savings through TEBA. The scheme was meant to ensure that a higher percentage of money earned by the miners was invested or used in the domestic economy. The miners are to receive adequate returns on their savings, equivalent to the rate paid by the Savings Branch Bank of the Lesotho Bank on normal deposits. Under agreed terms, miners can make two emergency withdrawals per contract. Their families can access the resources at home. While this arrangement is workable and has shown its resilience over the years, the savings generated have not been sufficiently geared towards national investment or to help miners establish enough bases for loans from the bank. The scheme may need to be developed further to harness resources for increased investment at local and national levels.
868. While migrant employment in South Africa has declined sharply, the domestic economy has experienced some increase in employment levels, particularly in the textile industry, which employed about 50,000 people until recently. Employment levels have not changed much in the public service, ranging between 30,000 and 35,000 workers over the last 10 years. The end of the Multi-Fibre Agreement (MFA) in December 2004 led to the closure of some textile factories. This has resulted in a loss of export market access in the face of increased competition from Asian exporters. It is estimated that about 10,000 jobs have been lost in the Lesotho textile industry between late 2004 and mid-2005.



869. The APR Panel recommends several measures to boost domestic employment opportunities and to develop indigenous enterprises. It is necessary to focus on developing instruments and measures that are based on the principle of maximising comparative advantage to attract South African industries and to penetrate South African markets. In the context of free labour and capital movement, Lesotho should also start negotiations with the South African government and employers to revise policies and to avoid the possible discriminatory retrenchment of Basotho workers.
870. Meanwhile, the inherent risks of overdependence on remittances should be analysed carefully. Attention should be focused particularly on strengthening the financial infrastructure through which remittances flow in order to direct them into programmes that increase their positive effects on the country as a whole. Remittances should be at least partly directed to build collateral for credit for small businesses in order to increase domestic investment and to improve job creation. In this regard, the deferred payment system should be developed to assist migrant miners to invest and accumulate assets to use upon their return to Lesotho.

7.2.8 The HIV and AIDS pandemic in Lesotho

871. Lesotho has the third-highest adult HIV prevalence in the world, at 23.2 per cent. According to the National AIDS Commission (NAC) (2008), there are an estimated 62 new infections and about 50 deaths each day. The scourge of HIV and AIDS is therefore a major threat to the survival of the country with its small population of 1.8 million and slow population growth rate of 0.1 per cent. HIV and AIDS are drastically undermining the efforts to promote good governance in all sectors, as they reduce the supply of skilled workers to the public and the private sectors. Sickness and death of employees reduce productivity and limited national resources are being diverted to meet the costs of treatment and prevention. It is therefore imperative that comprehensive measures are undertaken and sustained to curb this pandemic.
872. To the government's credit, the political leaders have consistently spoken out and supported the HIV and AIDS response at the highest level. HIV and AIDS were declared emergencies in 2000. The prime minister and top executives of the NAC have undergone public testing for HIV in support of the Know Your Status (KYS) campaign. The National HIV and AIDS Policy, the National HIV and AIDS Strategic Plan (2006 to 2011) and the National Monitoring and Evaluation Plan were approved by the government of Lesotho in November 2006. The NAC, which was set up by an Act of parliament in 2005, also became fully functional in 2006.
873. Nonstate stakeholders have also played an instrumental role. Fifteen senior Christian church leaders belonging to various denominations signed a statement of commitment on HIV and AIDS in 2007. The church leaders have spoken openly about HIV prevention and have also developed a set of key messages to be promoted through the different churches. An interfaith coordination body to coordinate the faith-based response on AIDS, called the Lesotho Inter-Religious AIDS Consortium (LIRAC), has been established.
874. Evidently, the government of Lesotho has developed and is implementing several HIV strategies. However, these efforts are being undermined by persisting sexual behaviour that is rooted in



powerfully held cultural attitudes and beliefs which are difficult to change. It is also important to note that the migrant-labour patterns contribute to this problem. Migrant workers are away from their families for about 10 months a year. During this extended absence, women may become vulnerable to pressures from other men. Indeed, it is common for migrant workers to return home to find their wives impregnated by other men – something that has exacerbated domestic violence in Lesotho.

875. Currently, only about 25 per cent of those in need are accessing antiretroviral therapy (ART) in Lesotho. The lack of adequate treatment was heavily underscored during the review mission. Stakeholders complained about having to travel long distances to treatment centres and about the long hours they have to wait for medical attention because of overcrowding. In addition, the lack of access to good nutrition to supplement the ARTs is a major constraint to addressing the pandemic.
876. As was mentioned in the chapter on socioeconomic development, the large numbers of children whose parents die as a result of HIV and AIDS are the casualties of the pandemic. The estimated number of dual orphans is around 46,600, while there were about 73,000 paternal orphans and 77,000 maternal orphans at the end of 2007. Adopting the National Policy on Orphans and Vulnerable Children (OVC) in 2006 helped to extend services to OVC. The OVC livelihood project aims to improve household food security and nutrition for OVC by undertaking income-generating activities, using simple technologies like water control, establishing keyhole gardens, harvesting roof water and installing simple, small-scale irrigation systems like drip irrigation.
877. Essentially, challenges to fighting the HIV and AIDS pandemic in Lesotho consist of:
- **Prevention.** There has been slow progress in achieving behavioural change. There is low coverage of prevention programmes for the main target populations. There is a limited number of targeted interventions. A review of prevention strategies should be undertaken to gain an understanding of prevention efforts and new and more robust prevention strategies should be implemented.
 - **Treatment and care.** Human resources are limited for training and retaining health professionals, as well as for ensuring access to health facilities and drugs.
 - **Impact mitigation.** There are no proper mechanisms in place to develop sustainable and appropriate programmes to mitigate the economic and social effects of HIV and AIDS. The resources for mitigating their effects are also inadequate. While the number of OVC is increasing, there is no clear process for registering them.
 - **Management and coordination.** There is a lack of timely data collection and dissemination. Data-collection tools should be standardised. A policy on the timely release of good data should be developed and implemented.

7.2.9 Lesotho as an enclave political economy

878. An *enclave state* is one that is entirely enclosed (or landlocked) within the territory of another, although it may be sovereign in international law. There are currently only three such states: Lesotho, San Marino and the Vatican.



879. The Kingdom of Lesotho is a small country which is completely surrounded by South Africa. The country's internal infrastructure, particularly roads, is very poor, partly because of its mountainous landscape. These physical features make Lesotho highly dependent on South Africa for moving goods and services and for the flow of development financing. Related to this fact is that, until very recently, more than half of Lesotho's gross national product (GNP) was generated beyond its border, mainly in the form of remittances from migrant Basotho working in South African mines. The other major source of national income is SACU. It accounts for more than half the country's revenues, which are declining. Because of the shortage of other resources, Lesotho exports water to South Africa through the Lesotho Highlands Water Project (LHWP). The latter took more than 30 years to conclude and the provisions of the agreement are unfavourable to Lesotho. This reflects the unequal power and exchange between the Lesotho enclave and South Africa. To emphasise the country's dependence, Lesotho imports electricity from South Africa.
880. Lesotho has few resources apart from labour and water. Only 9 per cent of the country can support arable agriculture. The land is prone to soil erosion, which is partly responsible for the decline in arable agriculture that could be pursued on 13 per cent of the land a generation ago. The soil is generally poor and yields of the main staple crops (maize, sorghum and wheat) are declining. The nonarable mountain areas are also rapidly deteriorating because of overgrazing. For the Basotho, livestock is a traditional source of wealth and large numbers of cattle, sheep and mohair goats are raised in the highlands. With the soil deterioration that has occurred, Lesotho now produces only between 40 and 55 per cent of its cereal requirements.
881. One consequence of its enclave status is that Lesotho has few development alternatives. It is limited by its small size and few resources. The country is not attractive to investors. Lesotho has a small population and a limited market that cannot serve as a basis for effective, large-scale production of many types of goods, services and industries that could compete with those in South Africa.
882. High transportation costs in Lesotho are considerable problems for trading, even with South Africa. Membership of SACU and the Common Monetary Area (CMA), whose policies and practices Lesotho has limited influence on, implies that Lesotho is dependent on external economic relationships that cannot promote transformation from within. The small size of Lesotho's enclave economy and the insufficient range of its products lead to considerable asymmetry between the structure of domestic consumption and the one of domestic production. Imports are weighty parts of internal consumption. Lesotho is very dependent on earnings from exports of goods and services. It is therefore deeply integrated in the South African economy. Lesotho, consequently, faces considerable vulnerability that could be a source of instability. This could be caused by South African protectionism and exogenous shocks in the global economy. The impossibility of considerably broadening the range of produced products deprives Lesotho of opportunities to defend itself against negative economic influences.
883. Lesotho is severely constrained politically. South Africa closed its borders in the mid-1980s in order to influence Lesotho's political decisions.



Economic vulnerability

884. Lesotho's membership of the CMA and SACU appear to influence economic and political events more than other arrangements do. The CMA allows an unrestricted flow of funds for both current and capital transactions within the area. This gives Lesotho limited control over monetary policy and none over the exchange rate. The primary objective of monetary policy becomes that of maintaining price stability and the fixed exchange rate between the loti and the South African rand and of ensuring an adequate level of reserves. This reduces the potency of monetary policy. In addition, since the South African rand is a unit of account and a medium of exchange in Lesotho, monetary developments in Lesotho are driven largely by events in South Africa. Fiscal policy becomes, in effect, a policy only for managing demand.
885. Several advantages are to be derived from Lesotho's membership of these organisations, in particular the CMA. These advantages can mitigate the adverse effects that could potentially seal the fate of a landlocked and small economy. Lesotho's links with other countries in the subregion has eased the movement of people, goods and services in and out of the country, particularly through South African ports. As a direct consequence, it has been able to benefit significantly from SACU revenue receipts. Indeed, it relies on those receipts to the tune of more than 50 per cent of its annual recurrent revenue. In addition, Lesotho receives between R40 million and R60 million annually as compensation for the money circulating in the country. However, SACU revenues are declining.
886. While Lesotho's membership of regional bodies, which was dictated largely by its small and landlocked economy, has brought some advantages, it also poses some challenges. These challenges hinge largely upon synchronising fiscal and monetary policies. The CBL cannot effect an independent exchange rate policy, as the exchange rate is determined wholly by South Africa. The challenges also hinge on Lesotho's ability to compete with South Africa for markets within the region and inside South Africa itself. The challenge facing policy makers is how to exploit this proximity to an advanced neighbour and tailor the spillover to its advantage.

Economic and political vulnerability and policy determination

887. As a member of SACU and the CMA, Lesotho does not have effective control over fiscal, monetary and industrial policies. The historic dependence on foreign aid for development also implies externally driven development priorities. It is, therefore, misguided to talk of 'Lesotho's development policy', because it does not exist.
888. The implications of the political and economic realities are that public policy and its implementation are largely influenced by the country's vulnerability to external forces over which it has no control. One fact is that the country's governance agenda may be heavily compromised by the demands, requirements and interests of more powerful external forces.

7.3 The National Programme of Action (NPoA)

889. A major outcome of the country self-assessment process was the identification of gaps and challenges in respect of governance in Lesotho. The CSAR makes recommendations to address



the gaps and, on the basis of them, an NPoA was designed. Additional deliberations on the NPoA were held between the CRM, the National Governing Council (NGC) and the government of Lesotho. The CRM interrogated the efficacy of the NPoA and proposed additional priority actions to deepen democracy as well as economic and social governance in Lesotho. The NGC worked with senior officials and the nominees of ministries to cost the NPoA. In addition, the NGC engaged two professional consultants, who were previously engaged as researchers, while developing the CSAR and after prioritising issues. The estimated total amount required to implement the NPoA is **US\$194,545,000**. The NPoA is a realistic and feasible three-year action plan. The country must implement it effectively if it is to achieve a democratically governed and prosperous society. It will be vital that the government and the development partners mobilise the resources required to implement the programme. The APRM framework also provides a channel through which African states can support one another to implement NPoAs.



ANNEXURE I

AFRICAN PEER REVIEW MECHANISM



LESOTHO APRM NATIONAL PROGRAMME OF ACTION



MAY 2009



Introduction

“The primary purpose of the National Programme of Action is to guide and mobilize the country’s efforts in implementing the necessary changes to improve its state of governance and socio-economic development. In addition, the National Programme of Action is the key input delivered by the country into the peer review, and it, therefore, serves to present and clarify the country’s priorities; the activities undertaken to prepare and participate in the APRM; the nature of the national consultations; as well as to explicitly explain the responsibilities of various stakeholders in government, civil society and the private sector in implementing the Programme”. (NEPAD/APRM/Panel3/guidelines/11-2003/Doc8 P10.)

The Lesotho APRM National Programme of Action (NPOA) is a major output of the country’s review process. It is thus an integral part of the Country Self-Assessment Report (CSAR). The NPOA is presented in five parts namely, Standards and Codes, Summary, Thematic Areas together with their specific objectives, Cross-Cutting Issues and Country Specific Issues. The part on Standards and Codes is applicable to all Thematic Areas, Cross-Cutting and Country-Specific Issues.

A total of 181 recommendations addressing the gaps and challenges identified were made, as documented in the CSAR. However, to avoid the NPOA being overly ambitious, prioritised actions based on selected recommendations have been adopted and cost for implementation in the first three years.

Costing of the National Plan of Action

The National Governing Council (NGC) worked with the Senior Government Officials and nominees of Government ministries to undertake the costing of the NPOA. In addition, the NGC engaged two professional consultants previously engaged as researchers during the development of the CSAR following prioritization of issues with the NGC.

The estimated total amount required to implement the NPOA is **US\$ 194, 545, 000**. The estimates in the NPOA are in US Dollars. To arrive at this figure, the required actions under each specific objective were analysed and broken down into achievable tasks within the period of three years. The tasks were considered to be cost drivers, and the required inputs were ascertained and the associated costs determined.

Where costs would best be ascertained at implementation stage, nominal figures were provided. Totals have been adjusted to take into account inflation and contingency at a rate of 10 per cent each.

Implementation, Reporting, Monitoring and Evaluation Mechanism

The government has the primary responsibility for implementing the NPOA. However, implementing, monitoring and evaluation agencies have been indicated for every action, including non-state actors, where applicable. The lists are in no way exhaustive, as they will be fully determined in the process of implementing the NPOA.

Efforts were made to integrate the identified priority actions into the ongoing national programmes and planning processes.



The NPOA reflects upstream governance catalytic actions which, if addressed would lead to more effective implementation of downstream activities. Each priority action has an assigned institutional responsibility for its effective implementation. Responsible institutions include government ministries, departments and agencies, as well as private sector and civil society actors, with the latter playing service delivery, advocacy and watchdog roles. This is to recognise the fact that this NPOA is a country rather than a government-only programme.

To implement the NPOA effectively, the following institutional mechanisms will be maintained, strengthened and/or established:

- The APRM Cabinet Sub-Committee (Already in existence)
- The Focal Point and Head of Secretariat (Already in existence)
- National Planning Board (Members to be appointed and functional within three months of the adoption of this report)
- The reduced NGC, (Maximum 8 members)

A progress report will be submitted to the APR Forum annually by the Prime Minister of the Kingdom of Lesotho.

Perceived Risks

Potential risks to full implementation of the NPOA include:

- Failure to mobilise the additional funding beyond currently available resources.
- Delay in building the requisite capacity in particular human resource, in time to implement the NPOA fully.
- Lack of political will and commitment.
- Political instability
- Global financial and economic recession
- Lack of institutional capacity to drive change
- Lack of the culture of dialogue and genuine partnership between state actors and non-state actors



Summary of the cost of the national plan of action

Components	Total adjusted for inflation (10%) and contingency (10%)
Standards and Codes	
Sub-Total	\$190,000
Democracy and Political Governance	
Objective 1	\$3,690,000
Objective 2	\$8,320,000
Objective 3	\$935,000
Objective 4	\$1,840,000
Objective 5	\$1,060,000
Objective 6	\$1,220,000
Objective 7	\$880,000
Objective 8	\$650,000
Objective 9	\$120,000
Sub-Total	\$18,905,000
Economic Governance and Management	
Objective 1	\$15,055,000
Objective 2	\$1,460,000
Objective 3	\$260,000
Objective 4	\$200,000
Objective 5	\$500,000
Sub-Total	\$18,225,000
Corporate Governance	
Objective 1	\$455,000
Objective 2	\$660,000
Objective 3	\$850,000
Objective 4	\$50,000



Objective 5	\$2,130,000
Sub-Total	\$4,145,000
Socio economic Governance	
Objective No. 1	\$14,300,000
Objective No. 2	\$81,450,000
Objective No. 3	\$32,070,000
Objective No. 4	\$16,130,000
Objective No. 5	\$8,000,000
Objective No. 6	\$1,250,000
Sub- Total	\$153,270,000
GRAND TOTAL	\$194,545,000
Cross-cutting Issues	
HIV and AIDS	\$2,500,000
Gender Mainstreaming	\$700,000
Sub-Total	\$3,200,000
Country Specific Issues	
National Sovereignty and Regional Integration	\$3,050,000
Traditional Governance	\$80,000
Sub-Total	\$3,130,000



Priority issues to be addressed and expected outcomes

Democracy and political governance

PRIORITY ISSUES TO BE ADDRESSED

OBJECTIVE I: PREVENT AND REDUCE INTRA AND INTER-COUNTRY CONFLICTS

- Undertake public consultations prior to the ratification of outstanding international and regional instruments
- Institutionalization of Conflict Management
- Institutionalization of democratization process
- Improvement of land governance and management

EXPECTED OUTCOME

- Reduced intra and internal conflicts
- Improved internal party-democracy
- Improved land governance and management

OBJECTIVE II: CONSTITUTIONAL DEMOCRACY, INCLUDING PERIODIC POLITICAL COMPETITION AND OPPORTUNITY FOR CHOICE, THE RULE OF LAW, A BILL OF RIGHTS AND THE SUPREMACY OF THE CONSTITUTION ARE FIRMLY ESTABLISHED IN THE CONSTITUTION

- Public awareness of laws and institutional operations
- Improvement of the administration of justice
- Promoting institutional effectiveness of Parliament
- Strengthening of oversight bodies
- Promoting and entrenching local governance for the community development and institutionalization of partnerships between Government and Civil Society in delivery and monitoring of public service

- Knowledgeable citizenry
- Existence and implementation of the Act
- Effective Parliament
- Improved human rights performance and strong Over-sight bodies
- Effective service delivery, effective Public/Private sector and Civil Society participation in managing development.

OBJECTIVE III: PROMOTION AND PROTECTION OF ECONOMIC, SOCIAL, CULTURAL, CIVIL AND POLITICAL RIGHTS AS ENSHRINED IN ALL AFRICAN AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

- Improving accessibility and enjoyment of human rights
- Full compliance with international, and regional human rights standards

- Enhanced compliance with international human rights standards
- Improved Human Rights performance and accountability



PRIORITY ISSUES TO BE ADDRESSED

EXPECTED OUTCOME

OBJECTIVE IV: UPHOLD THE SEPARATION OF POWERS INCLUDING THE PROTECTION OF THE INDEPENDENCE OF THE JUDICIARY AND OF AN EFFECTIVE PARLIAMENT

- Upholding Separation of Powers and the Rule of Law
- Enhancing the effectiveness of Parliament

- Improved delivery of Justice
- Enhanced Parliamentary independence

OBJECTIVE V: ENSURE ACCOUNTABLE, EFFICIENT AND EFFECTIVE PUBLIC OFFICE HOLDERS AND CIVIL SERVANTS

- Establish systems and mechanisms to fight corruption and slow implementation of improvements within the public service
- Enhancement of the capacity of public office holders' and civil servants' accountability, efficiency and effectiveness
- Compliance with financial rules, regulations and procedures

- Eradication of corruption and nepotism
- Improved delivery of services

OBJECTIVE VI: FIGHTING CORRUPTION IN THE POLITICAL SPHERE

- Fighting Corruption in the public sector and Political institutions
- Built capacity, cooperation, coordination and effectiveness of anti-corruption agencies
- Built capacity, cooperation, coordination and effectiveness of anti-corruption agencies

- Proper utilization of public funds and acquisition of assets
- Coordinated strategies to fight corruption
- Coordinated strategies to fight corruption

OBJECTIVE VII: PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN

- Development of mechanisms for promotion and protection of women's rights

- Appropriate legislation that protects women's rights, better understanding and acceptance of women's rights and non discriminatory inheritance legislation

OBJECTIVE VIII: PROMOTION AND PROTECTION OF THE RIGHTS OF THE CHILD AND YOUNG PERSONS

- Enhancement of the protection of the rights of the child
- Empowerment and development of the youth

- Comprehensive framework to cover the rights of children Better understanding and acceptance of children's rights
- Multi-dimensional programmes for youth



PRIORITY ISSUES TO BE ADDRESSED

EXPECTED OUTCOME

OBJECTIVE IX: PROMOTION AND PROTECTION OF THE RIGHTS OF VULNERABLE GROUPS, INCLUDING DISPLACED PERSONS AND REFUGEES

- Empowerment and development of people with disability
- Increased protection for orphans and vulnerable children

- Existence of Policies and Legislation
- Enhanced protection frameworks

Economic governance and management

PRIORITY ISSUES TO BE ADDRESSED

EXPECTED OUTCOME

OBJECTIVE I: PROMOTE MACROECONOMIC POLICIES THAT SUPPORT SUSTAINABLE DEVELOPMENT

- Improvement of macro economic performance
- Enhancing financial sector stability
- Need for broad-based economic growth and development and diversified production base, including attracting and maintaining Local and Foreign Direct Investment
- Increasing private investment and savings
- Promoting an enabling environment and effective regulatory framework for economic activities
- Improving agricultural productivity technologies and marketing systems/strategies
- Improvement of the capacity and efficacy of data collection institutions

- Increased private investment and savings
- Existence of one-stop-shop centres in all districts
- National Food Security
- Accurate and reliable data systems

OBJECTIVE II: IMPLEMENT TRANSPARENT, PREDICTABLE AND CREDIBLE GOVERNMENT ECONOMIC POLICIES

- Increasing absorptive capacity of spending agencies
- Develop a comprehensive national development plan

- Better Service Delivery
- Prudent use of public funds



PRIORITY ISSUES TO BE ADDRESSED	EXPECTED OUTCOME
<ul style="list-style-type: none"> Improvement of public service transparency and predictability in implementation of economic policies Increasing stakeholder participation in policy formulation, planning and budgeting at local and national levels Promotion of fiscal decentralization and empowerment of local authorities in decision making and resource use and allocation Promotion of public participation in national and local government decisions, resource allocation and budget tracking 	
OBJECTIVE III: PROMOTE SOUND PUBLIC FINANCE MANAGEMENT	
<ul style="list-style-type: none"> Increasing absorptive capacity of spending agencies Building public officers and civil servants capacity and skills in public expenditure management Strengthen the link between budgeting and implementation Enhancement of oversight bodies in the promotion of sound public finance management 	<ul style="list-style-type: none"> Effective management of public expenditure Well formulated budgets and improved implementation Effective over-sight of finance management
OBJECTIVE IV: FIGHT CORRUPTION AND MONEY LAUNDERING	
<ul style="list-style-type: none"> Improved efforts geared towards the fight against corruption and money laundering Public sector reform programmes aiming at improving public sector effectiveness and accountability 	<ul style="list-style-type: none"> Reduction of money laundering crimes Effective financial management and accountability in programmes implementation
OBJECTIVE V: ACCELERATE REGIONAL INTEGRATION BY PARTICIPATING IN THE HARMONIZATION OF MONETARY, TRADE AND INVESTMENT POLICIES AMONGST THE PARTICIPATING STATES	
<ul style="list-style-type: none"> Development, harmonization and implementation of regional and national monetary trade and investment policies Improvement of the capacity and efficacy of data collection institutions 	<ul style="list-style-type: none"> Strong Trade Capacity and modernised legal frameworks Improved Capacity



Corporate governance

PRIORITY ISSUES TO BE ADDRESSED	EXPECTED OUTPUT
<p>OBJECTIVE I: PROVIDE AN ENABLING ENVIRONMENT AND EFFECTIVE REGULATORY FRAMEWORK FOR ECONOMIC ACTIVITIES</p> <ul style="list-style-type: none"> • Overall enabling environment for business • Improvement of Corporate Governance 	<ul style="list-style-type: none"> • Growth of the Private Sector • Growth of the Private Sector
<p>OBJECTIVE II: ENSURE THAT CORPORATIONS ACT AS GOOD CORPORATE CITIZENS WITH REGARD TO HUMAN RIGHTS, SOCIAL RESPONSIBILITY AND ENVIRONMENTAL SUSTAINABILITY</p>	
<ul style="list-style-type: none"> • Promotion of corporate compliance with and observance of human rights and EIA processes 	<ul style="list-style-type: none"> • Environment and People friendly Corporate Sector
<p>OBJECTIVE III: PROMOTE THE ADOPTION OF CODES OF GOOD BUSINESS ETHICS (E.G. CADBURY AND KING CODES) IN ACHIEVING THE OBJECTIVES OF THE ORGANISATION</p>	
<ul style="list-style-type: none"> • Entrenchment of good business practices 	<ul style="list-style-type: none"> • Improved service delivery, increasing profits and a satisfied customer.
<p>OBJECTIVE IV: ENSURE THAT CORPORATIONS TREAT ALL THEIR STAKEHOLDERS (SHAREHOLDERS, EMPLOYEES, COMMUNITIES, SUPPLIERS AND CUSTOMERS) IN A FAIR AND JUST MANNER</p>	
<ul style="list-style-type: none"> • Improvement of business accountability and credibility to the stakeholders 	<ul style="list-style-type: none"> • Improved and vibrant business sector
<p>OBJECTIVE V: PROVIDE FOR ACCOUNTABILITY OF CORPORATIONS AND DIRECTORS</p>	
<ul style="list-style-type: none"> • Expedient resolution of commercial dispute • Development and establishment of a national accountability mechanisms for corporations and directors 	<ul style="list-style-type: none"> • Enhanced effectiveness of Judiciary • Enhanced effectiveness of Judiciary



Socio-economic development

PRIORITY ISSUES TO BE ADDRESSED

EXPECTED OUTCOME

OBJECTIVE I: PROMOTE SELF-RELIANCE IN DEVELOPMENT AND BUILD CAPACITY FOR SELF-SUSTAINING DEVELOPMENT

- Popularization of Standards and Codes
- Diversifying production base
- Development and improvement of infrastructure
- Capacity building and provision of resources

- Improved infrastructure development led to reduction of the Number of Kilometres travelled to nearest service centre;
- A more vibrant and strengthened Private Sector

OBJECTIVE II: ACCELERATE SOCIO-ECONOMIC DEVELOPMENT TO ACHIEVE SUSTAINABLE DEVELOPMENT AND POVERTY ERADICATION

- Poverty reduction
- Increase of social security
- Increase of youth employment

- Eradication of Extreme levels of poverty;
- Increased disposable income among citizens; Reduction of Poverty; Increased living standards of the elderly and Vulnerable, and reduced poverty levels; Reduced numbers of unemployed and loitering youth in the streets; Reduced numbers of unemployed and loitering youth in the streets;

OBJECTIVE III: STRENGTHEN POLICIES, DELIVERY MECHANISMS AND OUTPUTS IN KEY SOCIAL DEVELOPMENT AREAS (INCLUDING EDUCATION FOR ALL, COMBATING HIV AND AIDS AND OTHER COMMUNICABLE DISEASES)

- Periodic review and development of laws and policies
- Improvement of access, quality and outcomes of education systems at all
- An integrated and holistic approach to combating HIV and AIDS

- Enhanced, efficient and timely social service delivery
- Improved quality of Education and Productive Labour; Improved Health Services and a Healthy Nation; A more comprehensive and efficient HIV and AIDS programme

OBJECTIVE IV: ENSURING AFFORDABLE ACCESS TO WATER, ENERGY, FINANCE (INCLUDING MICRO-FINANCE), MARKETS AND ICT TO ALL CITIZENS, ESPECIALLY THE RURAL POOR

- Development and provision of improved infrastructure in particular the rural sector
- Provision of poverty sensitive tariff structures for all utilities
- Improving access to micro-credit

- Improved access and mobility in the rural sector
- Access to utilities by the poor and vulnerable



PRIORITY ISSUES TO BE ADDRESSED	EXPECTED OUTCOME
<p>OBJECTIVE V: PROGRESS TOWARDS GENDER EQUALITY, PARTICULARLY EQUAL ACCESS TO EDUCATION FOR BOYS AND GIRLS AT ALL LEVELS</p> <ul style="list-style-type: none"> Affordability and accessibility of education Eliminate harmful and discriminatory cultural and traditional practices and prevent teen pregnancies and early marriages Acceleration of gender equality 	<ul style="list-style-type: none"> Increased enrolment of pupils in schools, particularly OVC Increased enrolment of pupils in schools, particularly OVC
<p>Cross-cutting issues</p>	
<p>PRIORITY ISSUES TO BE ADDRESSED</p>	<p>EXPECTED OUTCOME</p>
<p>HIV AND AIDS</p>	
<ul style="list-style-type: none"> Development of HIV and AIDS competent nation 	<ul style="list-style-type: none"> An HIV and AIDS competent society
<p>GENDER MAINSTREAMING</p>	
<ul style="list-style-type: none"> Development of Gender Mainstreaming Strategies 	<ul style="list-style-type: none"> Enhanced legal frame work compatible with gender equality
<p>Country specific issues</p>	
<p>PRIORITY ISSUES TO BE ADDRESSED</p>	<p>EXPECTED OUTCOME</p>
<p>NATIONAL SOVEREIGNTY AND REGIONAL INTEGRATION</p>	
<ul style="list-style-type: none"> Enhancement of comprehensive communication infrastructure 	<ul style="list-style-type: none"> Improved Communication systems
<ul style="list-style-type: none"> Harmonisation of immigration and citizenship laws 	<ul style="list-style-type: none"> Harmonised of immigration and citizenship laws
<p>TRADITIONAL GOVERNANCE</p>	
<ul style="list-style-type: none"> Rationalisation of roles, functions and responsibilities of chiefs versus local authorities 	<ul style="list-style-type: none"> A smooth interface between Chiefs and Local Authorities
<ul style="list-style-type: none"> Increase effective community participation in policy arena (formulation, implementation and monitoring) 	<ul style="list-style-type: none"> Institutionalisation of consultative Stakeholder processes



National Plan of Action

Standards and Codes

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Compliance with adopted Standards and Codes	Lesotho to continue with consultations for ratifying outstanding international and regional instruments	Number of instruments ratified	Records	On-going	MoFAIR, MoJHR, Other Ministries, CBOs, Private Sector	MoFAIR, MoJHR	On-going	All relevant instruments ratified	20,000	MoFAIR, MoJC, CSOs and HRC
	Establish and update an electronic Depository bank for all international instruments signed or ratified and progress reports on implementation	Established electronic bank	Electronic link	Individual ministries data banks with incomplete information	Ministry of Foreign Affairs and Ministry of Justice	Ministry of Foreign Affairs and Ministry of Justice Other Ministries CBOs Private Sector	3 yrs	Easily accessible information on all relevant international instruments	30,000	MoFAIR, MoJC, CSOs and HRC
	Undertake public consultations prior to the ratification of outstanding international and regional instruments	Number of instruments ratified Number of campaigns	Records and reports	On-going	All Ministries, in collaboration with Ministry of Foreign Affairs and Ministry of Justice,	Civil Society Organizations and relevant Government Ministries MoFAIR, MoJC, CSOs and HRC	On-going		30,000	MoFA, MoJC, CSOs and HRC



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Parliament to consider adopting all international conventions acceded to and/or ratified	Number of Conventions adopted by Parliament	Records	Govt. is in the process of enacting Human Rights Commission that will oversee domestication of international and regional instruments	Ministry of Foreign Affairs and Ministry of Justice	Civil Society Organizations and relevant Government Ministries	3 yrs	All relevant instruments ratified	50,000	MoFA, MoJC, CSOs and LHRC
	Conduct public awareness on (new) ratified and adopted conventions Radio programs	Number of public awareness campaigns	Reports	Civil Society Organizations conducting civic education communities	LRC, CSOs and LHRC	Civil Society Organizations and relevant Government Ministries	On-going	Human rights compliant nation	60,000	MoJC and CSOs
Sub Total:									\$190,000	



Democracy and political governance

Objective I: Prevent and reduce intra- and inter- country conflicts

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiatives and available Budget	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Institutionalisation of conflict management	Develop comprehensive peace architecture for management of national, district and community level conflicts	Policies and programmes in place	Reports from key actors on adherence of standards	Land administration policies are being put in place and	Ministry of Local Government Ministry of Home Affairs MoJ	MLG, Local Authorities, CBOs, FBOs and CSOs	2 yr	Reduced intra and internal conflicts	500,000	Min of Local Government Min of Home Affairs MoJ
	Strengthen capacity of traditional authorities, local authorities and non-state-actors, including FBOs and CSOs on conflict management Training of trainers (MOLGC)	Number of agencies trained Number of chiefs and local councilors trained	Reports on training programmes	Restorative justice system	MOLGC, Ministry of Home Affairs, CSOs and MoJ	Local Authorities, Police CBOs, FBOs and CSOs	3 yrs	Reduced intra and internal conflicts	200,000	Min of Local Government Min of Home Affairs MoJ



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiatives and available Budget	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Initiate strategies and training to build capacity and mainstream women and youth in conflict prevention and management	Number of women and youth trained in conflict management	Reports on training programmes	Conflict Resolution Networks	IEC and CSOs FBOs	Political parties, CSOs	3 yr	Effective management of Disputes and enhanced gender balance in major conflict resolutions	30,000	IEC and CSOs
	Develop a code of conduct for political parties on conflict management	Codes in place	Reports	Electoral Code of Conduct	IEC and CSOs	Political parties, CSOs,	1 yr		10,000	Parliament, IEC CSOs
	Strengthen capacity of political parties and IEC on conflict management	All areas chiefs and local councilors trained	Reports		Min. of Local Government and CSOs	Chiefs, Councillors Communities, CSOs, CBOs and FBOs	3 yrs	Appreciation of Conflict management	90,000	MoLG and CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiatives and available Budget	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Develop strategies and deepen capacity for inter-party dialogue, negotiation and consensus building around MMP electoral model and any other sources of conflicts	Strategies developed	Reports on strategies		IEC MoHA	Political parties, CSOs, Parliament MoLG Law Office	1 yr	Reduced political conflicts	20,000	IEC, CSO
	Refine the MMP electoral model, including carrying out broad consultations on adopting a single list ballot	Refined MMP electoral model	Reports Amended electoral law	On-going	IEC MoHA	Political parties, CSOs, Parliament MoLG Law Office	1 yr	Clearly defined MMP model Reduced political conflicts	100,000	IEC, CSO



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiatives and available Budget	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Institutionalisation of democratisation process	Development of a policy for political parties participation in electoral processes	Existence of documented criteria	Availability of the criteria		Parliament, IEC, Political Parties, communities and CSOs	Political Parties, communities and CSOs	1 yr	Improved internal party-democracy	20,000	Parliament, IEC and CSOs
	Build capacity of Independent Electoral Commission to be able to effectively enforce electoral code of conduct	Training of IEC Tribunal on electoral disputes	Reports on training programmes		Parliament and CSOs	Political Parties, communities and CSOs	6 months	Have effective IEC	200,000	Parliament
	Put in place effective accountability mechanisms for political parties in regard to utilization of public funds availed to them	Availability of mechanisms	Political parties' audited account		IEC and CSOs	Parliament Political Parties, communities and CSOs	1 yr	Accountability Mechanisms	20,000	Auditor General



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiatives and available Budget	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Improve-ment of land governance and man-agement	Reform the administrative management of land allocation.	Effective institution for land administration	Reports	Land issues addressed in relation recom-mendations of the Ramodibedi Commission	MoLG	Local Au-thorities, CSO	3 yrs	Improved land govern-ance and manage-ment	1,500,000	Ministry of Natural Resources, Local Authorities, CSOs, CBOs
	Land policy	New policy framework in place and skilled staff	Drafting bill for establishment of LAA	Urban Council boundaries being reviewed	MoLG MoHA Law Office	Land Tribunal Min. of Natural Resources	3 yrs	Reduction of boundary disputes	1,000,000	MoLG MoHA
	Establish Land Administra-tion Authority	Land bill passed	Gazette-ment of the Commis-sion	Strategic plan being developed for LAA		CBOs CSOs Councillors Principal Chiefs				
Sub total									\$3,690,000	



Objective II: Constitutional democracy, including periodic political competition and opportunity for choice, the rule of law, a Bill or Rights and the supremacy of the constitution are firmly established in the constitution

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Public awareness of laws and institutional operations	Translate policies and laws into Sesotho and disseminate them	Number of laws translated and disseminated	Records of laws and policies translated and reports of awareness campaigns	Civil Society programmes and campaigns	Parliament and Line Ministries	Parliament, Line Ministries CSOs and media	On-going	Knowledgeable citizenry	300,000	Parliament, Ministry of Law, Ministry of Home Affairs, Ministry of Communication, CSOs and Media
Improvement of the administration of justice	Enactment of the Administration of Judiciary Bill	Enactment of the Bill	Gazette-ment of the legislation	Existence of a Bill	MoJC, JSC, Ministry of Public Service	MoJC, JSC, MoPS MoJC, JSC, Ministry of Public Service, CSO	1 yr?	Existence and implementation of the Act	150,000	NGC, MoPS
	Expand mandate and membership of Judicial service Commission (JSC)	Constitutional amendment	Constitutional amendment gazetted	Justice Sector Vision and Strategy	MoJ, JSC, Ministry of Public Service	MoJC, JSC, MoPS Faculty of Law, Law Society Ministry of Law CSO, MoJC	1 yr	Appointment of members	50,000	MoPS



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Hold public consultations in regard to amendment of the Constitution	Public hearings and submissions	Reports		MoJ, Ministry of Public Service	JSC, MoPS, MoJC, JSC, CSO	1 yr	Amendment of Constitution	200,000	Parliament JSC CSOs
	Promote access to and speedy dispensation of justice	Effective coordination mechanisms between police and courts of law	Training, Procedures and guidelines		MoJ, Ministry of Law, Law Society, Ministry of Labour, Local Authorities	MoJC, JSC, MoL Faculty of Law, Law Society, Ministry of Law CSO Local Authorities	On-going	Improved delivery of justice	500,000	Parliament JSC CSOs
Promoting Parliament effectiveness as an oversight body	Capacity building and provision of adequate resource for portfolio committees	Training and resources	Functional committees	Some Portfolio Committees have been established	Parliament	Parliament, Political parties and CSO	3 yrs	Effective Parliament	300,000	Parliament, Political parties and CSOs
	Establish Parliamentary Service Commission to appoint Parliament staff and Parliamentary Counsel	Consultations on structure Developed Bill	Act of Parliament gazetted	None	Parliament	Parliament, MoPS CSOs	2 yrs	Administrative staff answerable to Parliament	2,500,000	Parliament, Political parties and CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Establishment and strengthening of oversight bodies	Enact Human Rights Commission Bill and establish HRC	Parliamentary enactment of the law Established HRC	Act of Parliament gazetted Reports	A draft bill on establishment of Human Rights Commission	Ministry of Justice and CSOs Parliament and line ministries	Parliament, line ministries, CSOs	1 yrs 2 yrs	Improved human rights performance Strong Oversight bodies	2,000,000	Parliament, Political parties and CSOs
Promoting and entrenching local governance for the community development	Review decentralization process to identify measures that could expedite the process and provide certainty in its direction	Revised Local Government Act	Amended Local Government Act	On-going	MOLG MoFDP Community Councils Chiefs	MOLG MoFDP Community Councils Chiefs CBOs CSOs	On-going	Functional Local Authorities	50,000	MOLG CBOs CSOs
	Review and Harmonise Chieftainship Act 1968 with Local Government Act 1997 with regard to allocation of land and functions of chiefs	Revised Local Government Act and Chieftainship Act 1968	Amended Local Government Act and Chieftainship Act 1968	On-going consultations Draft proposals for Local Government Act	MOLG Community Councils Chiefs	MOLG Community Councils Chiefs CBOs CSOs	3 years	Functional Local Authorities	50,000	MOLG CBOs CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Consultations Printing and dissemination									
Institutionalization of partnerships between Government and Civil Society in delivery and monitoring of public service	Enhance and improve effectiveness of Government outreach systems and mechanisms	Developed Strategy, including integration into e-government strategy	Reports of activities taken		Government, CSOs and private Sector	MoLG, CBOs CSOs, FBOs and private Sector	3 yr	Strengthened outreach systems and mechanisms	20,000	MoLG, CSOs
	Establish national and local social dialogue fora	Agreements reached between Government and civil society	Existence of fora		Government, CSOs and private Sector	Government, CBOs CSOs and private Sector	3 yrs	Effective Public/Private sector and CS participation in managing development	1,500,000	Parliament, Min. of Comm
	Increase and strengthen community radio stations	Number of radio stations increased	Existence of additional radio stations		Min. of Communication Lesotho Communication Authority	Min. of Communication Lesotho Communication Authority Private sector, MISA, CSOs CBOs FBOs	On-going	Broader coverage and publicity of community issues	500,000	Lesotho Communication Authority



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Corporatise state-owned radio station and television	Developed bill and regulations	Parliamentary enactment and gazettement of the law	Communications act in place	Min. of Communication Lesotho Communication Authority	Min. of Communication Lesotho Communication Authority Private sector, MISA, CSOs CBOs FBOs	3 yrs	Broad participation in governance and management of Radio Lesotho and TV Lesotho	200,000	Parliament, CSOs
Sub Total:									\$8,320,000	



Objective III: Promotion and protection of economic, social, cultural, civil and political rights as enshrined in all African and international human rights instruments

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Improving accessibility and enjoyment of human rights	Establish Human Rights Commission	Reports	Gazette-ment of the Commission	Draft organogram and TORs for office bearers	Ministry of Justice and Correctional Offices	Law office, Ministry of Justice, Lesotho Law Society, CSOs	3 years	Enhanced promotion and protection of Human Rights	Objective II above	
	Develop a comprehensive training of elected representatives and public servants on human rights concepts and practices at the national and local levels, including awareness campaigns and dissemination of information in Sesotho	Increased knowledge of human rights	Reports of number of campaigns carried out	Awareness campaigns	MoJ, MoHA, HRC, Ombudsman, PCA, CSOs	MoJ, MoFA, CSOs, CBOs, FBOs	On-going	Growth of human rights culture	400,000	HRC, Ombudsman, PCA, CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Enact legislation that makes rights of access to education, health services and water justice-able	MDG performance targets Constitutional amendment to provide for justiceability of right of access to education, health services	Service standards for basic services Constitutional amendment Reports	Standards in relation to time are being developed	Min of Law Min of Education, MoHSW, MoNR HRC	CSOs, WASA Education sector, Health sector	1 yr	Enhance enforceability	200,000	Parliament, CSOs
	Enact a law guaranteeing access to and freedom of information	Discussion of the Bill in Parliament	Enactment of the law Developed broadcasting regulations	Existence of the draft Bill	Ministry of Communications, Law Office	Ministry of Communications, Law Office, CSOs, Media	1 yr	Access to and freedom of Information	10,000	Parliament, CSOs, Media



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Full compliance with international and regional human rights standards	Increase domestication of international Codes and Standards and regional instruments and improve capacity for reporting.	Enactment of bills regarding the instruments to be domesticated	Number of enacted laws and gazette-ment		Min of Law, MoJ, MoFA	HRC, CSOs	On-going	Enhanced compliance with international human rights standards	10,000	Parliament, CSOs, HRC
	Strengthen capacity of the parliamentary Counsel	Number of training workshops	Reports	None	Parliament, IEC, all Ministries	Parliament, IEC, all Ministries, CSOs	3 yrs	Skilled Members of Parliament	150,000	Parliament, CSOs
	Train the legislature to process bills and of the institutions that implement policies	Consultation with stakeholders and preparation of the reports	Submission of reports to relevant international bodies	Reporting on IC-CPR and CRC	MoJ, HRC, CSOs	MoJ, HRC, CSOs, MoFA	On-going,	Improved Human Rights performance and accountability	300,000	HRC, MoFA, CSOs
Sub Total:									\$935,000	



Objective IV: Uphold the separation of powers including the protection of the independence of the judiciary and of an effective Parliament

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Upholding Separation of Powers and the Rule of Law	Enhance Constitutional Democracy and the separation of powers with emphasis on the operational independence of the various governance institutions	4 workshops per annum	Reports and Guidelines	None	Parliament, Judiciary, Executive	Parliament, Judiciary, Executive, IEC, Academia, LIPAM, IDM, CSOs	3 yrs	Appreciation and observance of Separation of Powers by all concerned	150,000	Law Society, CSOs, Ministry of Justice
	Reform the Council of State to reflect the composition and dynamics of the country by including the civil society representatives.	Review the Constitution on the composition of Council of State	Amended Constitution	None	Parliament	MoJ, CSOs, FBOs, Private Sector, MoLG	1 yr	An all inclusive Council of State	60,000	CSOs, FBOs, Private Sector



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Enforce judicial reforms and improve existing administrative measures	Reduced back-log of cases and time it takes to complete cases	Court Reports	Justice sector strategic Plan	Judiciary	Law Society, CSOs, MoJ, CBOs Police Private sector	On-going	Improved delivery of Justice	1,000,000	Parliament, MoJ, CSOs, Private sector
	Establishment of Judicial inspectorate for efficiency, accountability and monitoring of judicial functions	Advertisement of the positions for the inspectorate	Appointment of relevant officers		JSC	Judiciary, Law Society, CSOs, MoJ, CBOs Private sector	1 yr	Improved judicial accountability and performance	100,000	Parliament, MoJ, CSOs
	Extend JSC's mandate to include appointment administrative staff	Bill to amend Constitution	Amendment gazetted		MoJ, MoL	MoPS, LEPSSA,	1 yr	Improved judicial control of staff	10,000	JSC, Judiciary, Parliament
	Expedite enactment of all outstanding bills including the Judicial Administration Bill (2001) Judicial Institutions Bill (2003),	Discussion of the said Bills in Parliament	Enactment of the Law	Existence of the Bills	MoJ	Parliament, Judiciary, Lesotho Law Society, CSOs,	3 yrs	Legislation in place	20,000	Parliament, Judiciary, Lesotho Law Society, CSOs,



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	and adopt the Code of Conduct for legal Practitioners (2007) so that the judicial system could be reformed for enhanced performance.									
Enhancing the effectiveness of Parliament	Institute Constitutional provisions that minimize executive control on legislative matters and establish a direct reporting procedure to Parliament by the Ombudsman, IEC, DCEO, PCA, Auditor General, Law Reform Commission and Human Rights	Parliament sets its own calendar of activities and nature of business	Constitutional amendments gazetted		Parliament and line ministries	Ombudsman, IEC, DCEO, PCA, Auditor General, Law Reform Commission and Human Rights Commission CSOs	1 yr	Enhanced independence	500,000	Parliament MoHA CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Commission (not enforceable since they are not members of parliament, but can report to parliamentary committees* Institutionalise process of reporting to parliament committees by the	Invitations to the Public	Attendance by the Public	None	Parliament	Parliament, Judiciary, Law Society, CSOs, CBOs, FBOs, Private Sector, Ombudsman, LRC, HRC	6 mths	Public participation	nil	Judiciary, Lesotho Law Society, CSOs, CBOs, FBOs, Private Sector, Ombudsman, Law Reform Commission and Human Rights Commission
Sub Total:									\$1,840,000	



Objective V: Ensure accountable, efficient and effective public office holders and civil servants

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Establish systems and mechanisms to fight corruption and slow implementation of improvements within the public service	Review and align laws and policies to ensure that appointments, promotions and transfers are based on predefined qualifications, merit and meet organizational needs	New procedures in place	Reduced number of complaints by public servants	Public sector Improvement Programme	Min. of Public Service	Parliament Line ministries, CSO, Oversight bodies LEPSSA	3 yrs	Eradication of corruption and nepotism	500,000	Parliament Oversight bodies LEPSSA
	Develop schemes of service for PSs Review the current process of appointing Principal Secretaries to cater for	Vacant positions of Principal Secretaries declared	Positions of Principal Secretaries advertised	None	Public Service	All Government Ministries, Public Service, Citizens, CSOs	3 yrs	Depoliticized Principal Secretaries positions	10,000	Parliament, All Government Ministries, Citizens, CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	professional instead of political considerations									
	Develop effective public communication and information dissemination strategy	Production of annual reports on various activities by Ministries and open up access to the national broadcaster	Reports and utilization of national broadcaster by all stakeholders	Reports made to parliaments and to the public on an ad hoc basis	All Government Ministries	Media, All Government Ministries, Public Service, Citizens, CSOs	1 yr	Effective participation by citizens and information dissemination strategy	220,000	Parliament, Media, Citizens, CSOs
	Review and Accelerate implementation of PSIRP	Progress reports	Annual Reports	Existence of PSIRP document	Min. of Public Service,	Min. of Public Service, PSC and line ministries	3 yrs	Improved service delivery by public servants	100,000	Parliament, CSOs
Compliance with financial rules, regulations and procedures	Enhance capacity of units/agencies responsible for monitoring and enforcement of financial rules and procedures	Reports on training of Auditor and Accountant Generals' staff	Performance reports	None	MFDP, Auditor General and Accountant General's Offices, LRA Central Bank	MFDP, Lesotho Institute of Accountants, Central Bank, Auditor General, and Accountant General, LRA	3 yrs	Improved compliance with financial rules, regulations and procedures Effective and ethical financial institutions	30,000	Parliament's Public Accounts Committee



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Enhancement of the capacity of public office holders' and civil servants' accountability, efficiency and effectiveness	Develop and implement service delivery plans and standards	Plans and standards	Reports	On-going	MoPS, MoHSW, MGYS, MoLG, MoLE, CSOs and CBOs	MoPS, All Ministries, CSOs and CBOs, Private Sector	3 yrs	Enhanced service delivery and adherence to business standards	200,000	CSOs CBOs FBOs and Development partners
Sub Total:									\$1,060,000	



Objective VI: Fighting corruption in the political sphere

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Fighting Corruption in the public and private sector as well as in Political institutions	Strengthen capacity of public and political institutions for proper use and management of public finances	Training programmes Disclosure and registration of private Political parties	Audit reports	Amend the Anti-corruption Act to provide for declaration of assets by political office holders, Parliamentarians and other high ranking officials in all public institutions	Parliament, IEC, DCEO	Parliament, IEC, DCEO, Political Parties, Auditor General, CSOs	1 yr	Proper utilization of public funds and acquisition of assets	100,000	Parliament, DCEO, Auditor General, CSOs
	Auditor General should be made fully independent and report directly to Parliament	Amended legislation in place	Reports to Parliament	None	Parliament, Law Office	Parliament, DCEO, Accountant General, Auditor General, CSOs, Attorney General, MFDP	1 yr	Amended legislation enabling Auditor General to submit timely audit reports	5,000	Parliament's Public Accounts Committee, CSOs
	DCEO should be granted full autonomy and report directly to Parliament	Amended legislation in place	Reports to Parliament	None	Parliament	Parliament, DCEO, CSOs, Law Office	1 yr	Amended legislation enabling DCEO to effectively fight corruption	5,000	Parliament's Public Accounts Committee, CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Strengthen the capacity of the DCEO to handle both corruption and economic offences effectively in the public and private sectors	Training programme, expansion of the DCEO human resource capacity and amended legislation	Progress reports and amended legislation	None	MoJ, DCEO, MFDP	Parliament, DCEO, CSOs, Law Office, MoJ	3 yrs	Increased effectiveness of DCEO in fighting corruption	100,000	Parliament's Public Accounts Committee, CSOs
Built capacity, cooperation, coordination and effectiveness of anti-corruption agencies	Enhance operational capacity of oversight agencies	Reduction of reported incidences of corruption Improved information sharing among agencies	Reports and Corruption perception surveys	Anti-corruption district committees	Parliament, DCEO, Police, Prosecution services	Oversight bodies, Local authorities, CSOs CBOs Police	2 yrs	Coordinated strategies to fight corruption	1,000,000	Parliament, Local authorities, CSOs
Sub Total:									\$1,220,000	



Objective VII: Promotion and protection of the rights of women

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Development of mechanisms for promotion and protection of women's rights	Develop and enact legislation to promote and protect the rights of women, in particular domestic violence	Reported cases of domestic violence	Bill and Legislation	Consultation on enactment of Domestic Violence legislation	MGYS	HRC, Women's organizations Min. of Law, CSOs	1 yr	Appropriate legislation that protects women's rights	30,000	HRC, Women's organizations Min. of Law, CSOs
	Carry out civic education and on women's rights in Sesotho, including Legal Capacity of Married Persons Act NO.9 of 2006	Established civic education programmes and production of relevant IEC materials	Information, Communication and Education materials	CSOs running civic education on women's rights	LRC, Min of Law MGYS	LRC, Min of Law, MGYS HRC, Women's organizations CSOs	On-going	Better understanding and acceptance of women's rights	300,000	HRC, Women's organizations Min. of Law, CSOs
	Harmonize domestic laws to allow males and females equal inheritance rights	Enactment of appropriate legislation	Bill and Legislation	None	MGYS CSOs	MGYS CSOs	2 yr	Non discriminatory inheritance legislation	50,000	CSOs HRC Development Partners



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Engage in a Coordinated development of a national gender strategic plan	Consultations with stakeholders and communities	Reports on consultative meetings	Gender Policy	MGYS CSOs	MGYS CSOs	1 yr	Multi-dimensional gender strategic plan	50,000	MGYS CSOs Development Partners
	Develop capacity building programmes for gender focal points and district gender officers and strengthen coordination through the MGYRS	Training programmes	Reports	On-going	MGYS CSOs	MGYS CSOs	3 yrs	Multi-dimensional gender strategic plan	150,000	MGYS CSOs Development Partners
	Develop political parties' legislation that promotes inclusion of women in political party leadership structures in line with SADC/AU declarations	Legislation for political parties	Bill and Legislation	None	IEC, MoJ, Political parties, Min of Law, MGYS, CSOs	IEC, MoJ, JHR, Political parties, Min of Law, MGYS, CSOs	3 yrs	Increased participation of women in political and decision making structures	300,000	HRC, Women's organizations Min. of Law, CSOs, Political parties, Parliament
Sub Total:									\$880,000	



Objective VIII: Promotion and protection of the rights of the child and young persons

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Enhancement of the promotion and protection of the rights of the child	Enactment of Child Protection and Welfare Bill	Enactment of Bill	Act gazetted	Existence of a Bill	Min of Law, MoJ	Min of Law, MoJ, MoHA, MoHSW, MoET, MGYS, CSOs, FBOs, Local authorities	6 months	Comprehensive framework to cover the rights of children	50,000	Parliament, MGYS-CSOs, CBOs, FBOs, Local authorities
	Develop a costed national action plan to facilitate effective enforcement of CPW Act	Existence of a costed national plan of action Number of reported cases on violations of children's rights	Reports		Min of Law, MoJ, MoHA, MoHSW, MoET, CSOs	Min of Law, MoJ, MoHA, MoHSW, MoET, CSOs		Better understanding and acceptance of children's rights	50,000	
	Engage in children's rights awareness campaigns Radio programmes	Number of campaigns population reached	Reports		Min of Law, MoJ, MoHA, MoHSW, MoET, CSOs		On-going	Increased knowledge of human rights amongst children and parents and public behavioural and attitudinal changes	50,000	Parliament, CSOs, CBOs, FBOs, Local authorities



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Empowerment and development of the youth	Devise multidimensional programmes to cater for issues of youth development	Responsive Government policy Strategic plan	Existence of the policy	Youth empowerment initiatives	MGYS CSOs Youth Associations	MGYS CSOs Youth Associations CBOs	On-going	Multi-dimensional programmes for youth	200,000	MGYS CSOs Youth Associations
	Develop a consolidated national policy that promotes and protects the rights of children and youth and mainstream youth and children issues in national and sectoral policies and programmes	Consolidated policy for promoting and protecting the rights of children Consolidated policy for the rights of Youth Mainstreamed youth and children issues into sectoral and national policies and programmes	Reports and Records	On-going	Min of Law, LRC, MoHSW, CSO, MoFA, MoLaw, MoHSW	MoHSW MoET MGYS CSOs CBOs FBOs Development partners Private sector	On-going	Existence of Policies and Legislation Existence of Policies and Legislation	200,000	CSOs, CBOs, FBOs, Development partners



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Strengthen efforts to provide sexual and reproductive health information and increased access to health care for children and youth including sex workers	Report on the consultations on the issue of legalization of sex work in Lesotho Reports on information and access to health care	Reports	None	MGYS, CSOs	MGYS, CSOs, MoHW, DPMP	3 yrs	Sexual and reproductive health competent youth and children	100,000	Parliament, CSOs
Sub Total:									\$650,000	



Objective IX: Promotion and protection of the rights of vulnerable groups, including displaced persons and refugees

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Empowerment and development of vulnerable groups	Domestication of the Convention on the Rights of Disabled Persons	Domesticated Convention on the Rights of Disabled Persons	Report	None	MoHSW MoFA, MoJ	MoHSW MoFA, MoJ	1 yr	A responsive society to the needs of people living with disability	10,000	Parliament, CSOs
	Develop policies, Enact laws and implement programmes aimed at empowering and protecting vulnerable groups, including inheritance rights of orphans	Existence and enforcement of policies, laws and programmes Process	Reports and Records		Min of Law, LRC, MoHSW, CSO, MoFA, MoLaw, MoHSW	MoHSW MoET MGYS CSOs CBOs FBOs Development partners Private sector	Ongoing	Existence of Policies and Legislation Existence of Policies and Legislation	10,000	CSOs, CBOs FBOs Development partners



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Increased protection for orphans and vulnerable children	Put in place effective social welfare programmes to enhance the life skills, security and dignity of OVCs	Existence of Programmes and support mechanism for OVCs	Reports	Social welfare programmes and OVC Policy	MoHSW MoET MGYS	MoHSW MoET MGYS CSOs CBOs FBOs Development partners Private sector	Ongoing	Enhanced protection frameworks	100,000	CSOs, CBOs FBOs Local Authorities Development partners
Sub Total:									\$120,000	
TOTAL:									\$18,905,000	



2. Economic governance and management

Objective I: Promote macroeconomic policies that support sustainable development

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Improvement of macro economic performance	Stimulate growth to widen the tax base through growth strategy	Expanded tax base	Economic reports	Developed draft growth strategy	MFDP LRA	MFDP LRA MITCM Private Sector Tax payer Parliament Financial sector	3 yrs	Increased economic growth and Government revenue	20,000	Parliament Financial sector
	Exercise fiscal discipline									
Enhancing financial sector stability	Enhance tax administration									
	Enhance supervisory and regulatory capacity over the financial sector, especially the non-bank financial institutions	Revised legal frameworks Provided technical support Trained staff in public and private institutions	Reports	On-going	Central Bank, MFDP, MITCM, CSOs, private sector	MoFP, Central Bank, CSOs, private sector	1 yr 3 yrs	Enhanced financial sector stability Reduction of illegal financial activities	10,000	MFDP Private sector



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Need for broad-based economic growth and development and diversified production base, including attracting and maintaining Local and Foreign Direct Investment	Provide an enabling environment for business development and growth	Reviewed and enacted Business legal frameworks (Licensing Bill, Companies Bill, Competition, law, Land, Act, Standards)	Bills enacted, Report	Bills are being prepared for submission to parliament	MITOM, MoFP, LNDC, Central Bank, MoLG	LNDC, Private Sector	3 yrs	Increased private investment and savings	100,000	MoFP, Central Bank
	Prepare bills	Fully functional central one stop shop	Operational one stop shops	Land regulations being drafted						
	Enhance trade facilitation	Establish one stop commercial boarder posts							1,000,000	
		Facilitate the creation of a dry port in Maseru								
		Install systems and equipment for clearance of goods								



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Enhance public private partnerships in the development of the economy	Developed PPP policy Implemented PPP projects	Reports	Projects implemented under PPP	MFDP	MFDP LNDC, Private Sector Trade union	3 yrs	Increased collaboration between public and private sector in the development of the economy	50,000	LNDC Private Sector Trade union
	Deepen financial intermediation and inclusion particularly in rural areas	Volume of credit extended to farmers Number of rural savings and credit schemes provided with training Functional credit guarantee scheme Developed microcredit policy	Number of registered credit unions in rural areas	Finalization of policy on financial cooperatives	MFDP, CBL MTCIM	MFDP, CBL MTCIM, Post Bank	3 yrs	Access to banking and financial services by rural communities	10,000,000	CBOs, CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Diversification of Lesotho's exports and markets	Identified potential export products and profitability analysis Serviced export markets Established export finance scheme Promotion of investment Implementation of the growth strategy	Export documentation Volume of private local and foreign investment	On-going Developing infrastructure for new factories producing non-textiles products Negotiating new export markets, SADC-EU EPAs, SACU-MERCUSOR, SACU-India Promoting investment in new sectors Implementing PSCP – trials of high value crops	MTCIM, LNDC CBL, Commercial Banks, MNR, MOAFS, MTEC	MFDP, CBL, MTCIM, Private Sector, Commercial Banks	3 yrs	Diversified exports and markets and economic growth through foreign exchange earnings	1,500,000	MFDP, Private sector
	Enhance capacity and efficiency for investment promotion and market development	Restructured support institutions Robustness of e-promotion	Directory of investors	On-going	LNDC, LTDC, MT-CIM, MFDP, MoFAIR, Private sector, MoLE, MoHA	MTCIM, MFDP, MoFAIR CBL, Commercial Banks, LNDC, Private sector, MoLE, MoHA	3 yrs	Industrial development and improved livelihoods	1,000,000	Parliament's economic cluster, MFDP, CBL, CSOs, Media



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Restructure investment promotion and entrepreneurship support institutions Enhance e-investment promotion Reorient and enhance capacity of GoL offices abroad for investment promotion	Reoriented and capacitated GoL offices abroad for investment promotion in countries of major commercial interest		On-going SMME policy under review	Min. of Trade, Business associations / Chambers, MoLG, IEMS, BEDCO, SMME Network	Min. of Trade, Central Bank, Business associations	3 yrs	Empowered and effective SMMEs	1,000,000	CSOs Min. of Trade
	Strengthen and promote SMMEs,	Reviewed SMME Policy Training programmes in business management and planning	Policy document							



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Facilitate easy access to business credit and development of infrastructure for informal sector including people with disability	Existence of strategies, especially integration of informal sector/street vendors and people with disability in the economy	Reports	On-going	MoFP, Central Bank, CSOs, private sector	MoFP, Central Bank, CSOs, private sector, MoLG, MTTCM, MoHSW	1 yr 3 yrs	Enhanced financial sector stability	125,000	Parliament, MoLG, MTTCM, MoHSW
	Develop strategies and programmes, for integration of informal sector in the economy (Link Large – SMMe-in-formal)	Developed infrastructure for street vendors and people with disability								
	Develop strategies, for integration of people with disability into the economy									



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	MOVE TO SOCIO-ECONOMIC									
Improvement of the capacity and efficacy of data collection institutions	Establish BoS council and develop a statistical master plan	Development of Statistical Bill	Enactment of the Bill	PRS initiatives	Ministry of Finance and Planning and BoS	Line Ministries, Public Corporations and agencies, academic and research institutions and CSOs	2 yrs	Accurate and reliable data systems	250,000	MoFP, Academic and research institutions and CSOs
Sub Total:									\$15,055,000	



Objective II: Implement transparent, predictable and credible government economic policies

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Increasing stakeholder participation in policy formulation, planning and budgeting at local and national levels	Train representative structures on how to participate meaningfully in policy formulation, planning and budgeting	Number of civil society representatives trained and participating in national budget preparation	Reports	Trainings at both local and national levels have started	MoLG, MoFP, MoHA	Local and National Authorities, CSOs, CBOs, Parliament	On-going	Better Service Delivery	200,000	Parliament, MoLG and CSOs
	Adopt an enhanced bottom-up approach for planning and budgeting processes	Number of consultative meetings on the budget planning and monitoring processes with stakeholders	Reports on the civic engagement on planning and budgeting processes	None	MoFDP, line ministries, Local and districts councils	Local and National Authorities, CSOs, CBOs, Parliament	1 yr	Participatory and pro-poor budgeting process	50,000	Parliament, CSOs
	Develop a rigorous public awareness strategy so as to enhance public participation in policy-making	Public participation Strategy	Reports on the civic engagement on planning and budgeting processes	None	MoFDP, line ministries, Local and districts councils	Local and National Authorities, CSOs, CBOs, Parliament	1 yr	Participatory and pro-poor budgeting process	50,000	Parliament, CSOs, Media



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	in general and the decentralization process in particular									
Develop a comprehensive national development plan	Develop a National Development Plan to guide MTEF, with growth and poverty reduction focus and integrate APRM - NPOA	Functional and effective National Development Plan	Progress report and budgetary allocations	On-going	MoFDP, line ministries, Local and districts councils, CSOs,	Line ministries, Local and districts councils, CSOs,	3 yrs	Enhanced economic growth and development	1,000,000	Parliament, CSOs, Media
Improvement of public service transparency and predictability in implementation of economic policies	Train district staff on MTEF budget process PFM	The proportion of district budgets captured in the national MTEF	Reports	MTEF programmes	MoFP and line Ministries	MoPS, Private Sector agencies and CSOs	3 yr	Prudent use of public funds	50,000	MoFP



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Promotion of fiscal decentralization and empowerment of local authorities in decision making and resource use and allocation	Harmonize public finance laws and regulations with local government laws relating to fiscal decentralization	Revised laws	Reports	On-going	MoFDP, line ministries, Local and districts councils	Local and National Authorities, CSOs, CBOs, Parliament	1 yr	Participatory and pro-poor budgeting process	50,000	Parliament, CSOs
	Complete fiscal decentralization process	Systems and framework in place	Reports	On-going	MoFDP, line ministries, Local and districts councils	Local and National Authorities, CSOs, CBOs, Parliament	2 yr	Participatory and pro-poor budgeting process	50,000	Parliament, CSOs
	Train local authorities in decision making on resources use and allocation	Preparation of budgets by local authorities	Reports of local authorities	Trainings at both local and national levels have started	MoLG, Local Authorities	MoF, MoLG, CSOs, CBOs	3 yr	Well formulated budgets and improved implementation	10,000	MoLG, CSOs
Sub Total:									\$1,460,000	



Objective III: Promote sound public finance management

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Increasing absorptive capacity of spending agencies	Build capacity of public officers and civil servants in planning and public expenditure management	Proportion of disbursed budgetary funds to budgetary allocations	More projects completed within schedule	MTEF and IFMIS programmes	Min. of Finance and other line Ministries	Min. of Finance and other line Ministries Auditor General, Parliament and CSOs	On-going	Effective management of public expenditure	50,000	Parliament and Auditor General
Strengthening the link between the planning, budgeting and implementation	Train public officers and civil society representatives on newly adopted planning tools (BFP), budget analysis and undertaking public expenditure reviews	Degree of synchrony between Ministry/agency plans and MTEF budgetary allocations	Reports	MTEF and IFMIS programmes	Min. of Finance and other line Ministries	Min. of Finance and other line Ministries Auditor General, Parliament and CSOs	On-going	Improved budget management and tracking	10,000	Min. of Finance Parliament and CSOs Auditor General
Enhancement of oversight bodies in the promotion of sound public finance management	Built capacity of oversight bodies on public finance management	Number of oversight bodies trained	Reports		Government Ministries	All oversight bodies	1 yr	Effective oversight of finance management	200,000	Parliament and CSOs
Sub Total:									\$260,000	



Objective IV: Fight corruption and money laundering

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Improved efforts geared towards the fight against corruption and money laundering	Strengthen internal procedures and controls to deter corruption and facilitate the detection and prosecution of corrupt practices	Functional IFMIS Trained staff on procedures and regulations	Reports	On-going	MoFDP DCEO, MoJHR,	Min. of Finance and other line Ministries	3 yr	Improved transparency	100,000	Law Reform Commission, NGC and Media
	Strengthen capacity of oversight bodies, including Public Accounts Committee, and Auditor General to combat corruption	Training programmes for oversight bodies on public finance management	Number of oversight bodies trained	On-going	Min. of Finance and other line Ministries Auditor General, Parliament and CSOs	Min. of Finance and other line Ministries Auditor General, Parliament and CSOs	3 yrs	Improved and effective role of the oversight structures in monitoring	100,000	Parliament, CSOs, Media



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Enhance public involvement in the fight against corruption and money laundering through education programmes and awareness campaigns and information availability and accessibility on fight against corruption	Enactment of Access to Information Bill	Gazette-ment of the Act	Draft Bill exists	Ministry of Communication and Information	Media CSOs DCEO	On-going	Competent society in the fight against corrupt practices	200,000	Parliament, CSOs, Media
	Enforce the legal framework for anti-money laundering	Implementation of Anti-Money Laundering Act	Reports		Ministry of Finance, DCEO, Police, Prosecutors, Business sector, Banking sector	Ministry of Finance, DCEO, Police, Prosecutors, Business sector, Banking sector	On-going	Reduction of money laundering crimes	50,000	Central Bank of Lesotho and Police



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Public sector reform programmes aiming at improving public sector effectiveness and accountability	Built local authorities capacities in financial management and programme implementation	Number of local authorities requesting and utilising budget appropriately	Reports		Ministry of Local Government, Local Government Service Commission, Ministry of Finance	Local Authorities, CSOs, CBOs	3 yrs	Effective financial management and accountability in programme implementation	50,000	Min. of Local Government Ministry of Finance
Sub Total:									\$500,000	



Objective V: Accelerate regional integration by participating in the harmonization of monetary trade and investment policies amongst the participating states

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Development, harmonization and implementation of regional and national monetary trade and investment policies	Promote and implement programmes of strategic collaboration with neighbouring countries	Number of bilateral and multi-lateral Agreements and implementation rate of the said agreements	Agreements and implementation reports	Vision 2020	MTICM, MFDP, Business sector	Government, Private business institutions, and CSOs	3 yrs	Strong Trade Capacity	200,000	Parliament, Min. of Finance and Plan-nine
	Review finance, trade and customs laws for harmonization (Domestication)	Bills	Bills enacted into laws		MTICM, MFDP, Business sector, LRC	Government, Private business institutions, CSOs and Banking sector	3 yrs	Modernised legal frameworks	150,000	Parliament and Min. of Law
Improvement of the capacity and efficacy for investment and trade promotion	Improve capacity of investment and trade promotion institutions (move up)	Adequate budgets and appropriate skills development programmes	Trade promotion and investments reports		Min. of Trade, Private Sector, LNDC, LTDC,	Min. of Trade, Private Sector, LNDC, and LTDC, CSOs and CBOs	3 yrs	Improved Capacity	Included in obj. I above	Parliament and CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Enhance capacity of investment and trade promotion institutions for data collection, research and analysis and Information, Education and Communication (IEC)	Enhanced business and marketing intelligence Enhanced technical capacity skills development programmes	Trade promotion and investments reports		Min. of Trade, Private Sector, LNDC, LTDC,	Min. of Trade, Private Sector, LNDC, and LTDC, CSOs and CBOs	3 yrs	Improved Capacity	600,000	Parliament and CSOs
Sub Total:									\$950,000	
TOTAL:									\$18,225,000	



3. Corporate governance

Standards and codes

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time frame	Expected Output	Estimated Cost (USD)	M & E Agency
Promotion of Good Corporate Governance	Finalise enactment of legislation relevant to the promotion of good corporate governance including Companies' Act, Land Act, Accountants' Act and Insurance Act.	Draft amendments and Bills in place	Enactment of new legislation and amended Insurance Act	Drafts for new companies Act, and Land Act	MTICM, MoLG, MoFDP	MTICM, MoLG, MoFDP, Central Bank, LSPP, LIA, Private Sector, LNDC, Law Office	2 yrs	Conducive environment for business and improved Doing-Business ranking	10,000	Parliament
	Develop national standards and codes of corporate governance and provide shareholder education and information dissemination of the same	Reports on development of standards and codes and information dissemination materials	Availability of standards and codes	None	MTICM, MoLG, MoFDP, LIA, Central Bank	MTICM, MoLG, MoFDP, Central Bank, LSPP, LIA, Private Sector, LNDC, Law Office	3 yrs	Good Corporate Governance	100,000	Private Sector, CSOs, Trade Unions, Accountant General



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Develop simplified accounting standards for SMEs	Reports on simplification of Standards and Coded on Corporate Governance	Simplified and user-friendly standards and codes	None	BEDCO, LIA	Central Bank, MoFDP, MTICM,	3 yrs	Standards and Codes	50,000	Central Bank, MoFDP, MTICM, Private Sector



Objective I: Provide an enabling environment and effective regulatory framework for economic activities

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Establishing of an overall enabling environment for business	Implement the Private Sector Development Plan (PSD)	PSD Plan in place	Reports	Private Sector Development Plan (PSD) within the country's MCC Compact and private sector competitiveness project.	Finance & Economic Planning (MoFDP) and Trade and Industry, Cooperatives and Marketing (MTICM);	MoFDP; Min of Law MTICM, MoHAPS, LNDL BEDCO; Central Bank; Business Chambers, public, private, business and professional organizations, associations and institutions;	1 yr	Growth of the Private Sector	75,000	MoFDP Private Sector CSOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Establish Corporate Governance Institute	Corporate Governance Institute legislation	Corporate Governance Institute established and functional	LIA has started to work on the draft legislation	MITCM LIA	Ministry of Trade and Industry, Cooperatives and Marketing (MITCM) and MFDP	2 yrs	To have operational CGI Improved Corporate Governance and More efficient Boards	50,000	MITCM LIA MFDP
	Enhance strategies to enforce labour and OSHA standards particularly in the textile industries	Training programmes for labour inspectors	Training Reports	On-going	MoLE	MoLE MITCM Textiles Associations	3 yrs	Skilled labour inspectors Improved compliance by industries	10,000	MoLE MITCM Textiles Associations Trade Unions
Improvement of corporate governance	Review and develop a corporate governance codes and standards	Codes and standards developed	Reports	MCA Compact	Ministry of Trade and Industry, Cooperatives and Marketing (MITCM)	Ministries of Finance & Economic Planning (MoFDP); Law & Constitutional Affairs; MITCM, CEOs of the LNDC and	1 yr	Improved Corporate Governance and More efficient Boards	50,000	Parliament and CSO's



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
						BEDCO; Governor of the Central Bank; Business Chambers, public, private, business and professional organizations, associations and institutions;				
	Speed-up the completion of the one-stop-shop	Drafting Bill for one stop shop	Enactment of legislation for the one stop shop	One stop shop is operational Finalisation of the strategic plan	MTICM MFDP	MTICM, MFDP, LRA, MOHA, Business Chambers	1 yr	Ease of doing business	10,000	Private sector MFDP
	Promote and establish share-trading schemes to assist local entrepreneurs in mobilizing capital	The number of share-trading schemes	Established share-trading schemes	On-going	MFDP CBL	MFDP CBL Chambers of Commerce LNDC BEDCO CSOs	3 yrs	Improved access to finance	100,000	Chambers of Commerce LNDC BEDCO CSOs
Sub Total:									\$455,000	



Objective II: Ensure that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Promotion of corporate compliance with and observance of human rights and EIA processes	Strengthen capacity of agencies responsible for monitoring and enforcement of laws against unlawful labour practices	Training programmes	Reports on training programmes	Departmental training	MoLE	MoLE, MITCM, Textiles Associations	3 yrs	Skilled labour inspectors Improved compliance by industries	100,000	MITCM, CSOs, Textiles Associations
	Raise awareness and Develop a strategic vision for corporate social responsibility	Draft private sector strategic vision document	Strategic vision document	Individual corporate social responsibility policy	CSOs, Private sector	Private sector Social welfare LRA	1 yr	Coordinated approach towards corporate social responsibility	30,000	Social welfare, MGYS, LEFA
	Raise public awareness in waste and general environment management	Awareness campaigns	Reports		MoTEC, CSOs, Private sector	MoTEC, CSOs, MPWT, MNR, WASA, LNDC, LEC, LTA, Private sector	3 yrs	Coordinated approach towards corporate social responsibility	30,000	CSOs, Private sector



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Review and amend the EIA legislation	EIA legislation reviewed	Gazette-ment of the legislation and reports	There is an Environment Policy and a National Environment Secretariat (NES) in place whose responsibility is to enforce Environmental Impact Assessments (EIAs). Enforcement is weak and public participation in EIAs is also poor.	Ministry of Natural Resources, Ministry of Tourism	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; NES; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.	1 yr	Environment and People friendly Corporate Sector	500,000	Parliament, Private Sector, CSO's
Sub Total:									\$660,000	



Objective III: Promote the adoption of codes of good business ethics (e.g. Cadbury ad King Codes) in achieving the objectives of the organization

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Entrenchment of good business practices	Develop and disseminate corporate governance guidelines for policymakers, market players, and corporations in the use of the Code towards adopting sound corporate practices at the national and local levels	Guidelines Developed	Guidelines in place	Private Sector Development Plan (PSD) within the country's MCC Compact.	MTTCM	Ministries of Finance; Law & Constitutional Affairs; LNDC and BEDCO; CSOs; Governor of the Central Bank; Business Chambers.	2 yrs	Improved service delivery, increasing profits and a satisfied customer.	200,000	Corporate Governance Committee (CGC) with Cabinet Steering Committee oversight.
	Carry out nationwide awareness campaigns to promote business ethics	Number of awareness campaigns conducted	Reports	None	Private Sector CSOs	Ministries of Finance; DCEO; MoHA; LNDC and BEDCO; CSOs; Central Bank; Business Chambers.	3 yrs	Business sector that is ethical compliant	100,000	Ministries of Finance; MoHA; LNDC and BEDCO; Central Bank; Business Chambers



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Establish a multi-stakeholder national consultative forum for discussions on business codes and standards	Forum Established	Reports	Private Sector Development Plan (PSD) within the country's MCC Compact.	MTICM;	Ministries of Finance; Law & Constitutional Affairs; LNDC and BEDCO; CSOs; Governor of the Central Bank; Business Chambers.	3 yrs	Effective coordination structure and regular sectoral consultations	50,000	Corporate Governance Committee (CGC) with Cabinet Steering Committee oversight.
	Develop and implement programmes to protect environment in the light of infrastructure and major developments	Programme developed and in place	Reports	Land-fill being developed	MTEC MNR WASA MPWT LNDC	Government Ministries, Private Sector, CSOs	Ongoing	Enhanced awareness and compliance with environmental standards	500,000	Parliament Private sector CSOs
Sub Total:									\$850,000	



Objective IV: Ensure that corporations treat all their stakeholders (shareholders, employees, communities, suppliers and customers) in a fair and just manner)

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Improvement of business accountability and credibility to the stakeholders	Review Business legislations towards improvement of Business ethics	New Bill developed	Enactment of the legislation	Private Sector Development Plan (PSD) and regulatory reviews within the country's MCC Compact.	MTICM	Ministries of Finance; Law & Constitutional Affairs; CEOs of the LNDC and BEDCO; Governor of the Central Bank; Business Chambers; CSO's	2 yrs	Improved and vibrant business sector	50,000	
Sub Total:									\$50,000	



Objective V: Provide for accountability of corporations and directors

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Expedite resolution of commercial disputes	Establish Commercial Court and ADR processes	Number of days taken to solve a commercial case	Reports		Min. of Law, MoJ, Law Society, Judiciary	Min. of Law, MoJ, Law Society, Judiciary, CSOs, Private sector	1 yr	Enhanced effectiveness of Judiciary	500,000	Parliament, Private sector, CSOs
Development and establishment of a national accountability mechanisms for corporations and directors	Establish Institute of Directors	Institute of Directors established and functional	Reports	Private Sector Development Plan (PSD) and regulatory reviews within the country's MCC Compact	MTICM Private Sector	Ministries of Finance; Law & Constitutional Affairs; LNDC and BEDCO; Central Bank; CSOs; Business Chambers	1 yr	Enhanced effectiveness of Judiciary	1,500,000	MoFDP



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Institutionalize procurement dispute settlement and appeals within the procurement system	Establishment of dispute settlement mechanisms	Operational mechanisms	None	MFDP	MFDP MTICM Private Sector MoJHC	2 yrs	Speedy resolution of disputes	30,000	Private Sector MoJHC CSOs
	Decentralise internal audit functions	Establishment of internal audit units in line Ministries and at district levels	Progress reports Functional internal audit units	None	MFDP	MFDP MTICM Private Sector	3 yrs	Increased compliance with accounting standards and codes	100,000	MFDP MTICM Private Sector
Sub Total:									\$2,130,000	
TOTAL:									\$4,145,000	



4. Socio-economic development

Standards and codes

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Popularization of Standards and Codes	Simplify and translate Standards and Codes into local language	Reports on simplified material, advocacy and dissemination strategy	Consultation reports	None	MoJHR and all line ministries	MoJHR and all line ministries, Parliament, CSOs, Media	3 yrs	Informed and empowered society that complies with international standards and codes	100,000	Parliament, CSOs, Media
	Comply with all adopted Standards and Codes, especially rights of the child and MDGs	Enactment of the Child Protection and Welfare Bill	Bill and the Legislation	On-going	MoJHR, Law Reform Commission,	MoHW, Employment, Labour, Education	1 yr	Informed and empowered society that complies with international standards and codes that is protective of the Rights of the Child		Parliament, CSOs, Media



Objective I: Promote self-reliance in development and build capacity for self-sustaining development

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Diversifying production base	Implement the growth strategy, (Agriculture, Manufacturing, Tourism, Mining and infrastructure for supporting growth sectors)	Increased and diversified industrial products	Reports	On-going	MTICM, MAFS	MTICM, MAFS, LNDC, BEDCO, CSOs, Private Sector	3 yrs	Expanded economic base and productivity and improved human livelihoods	12,000,000	Parliament, Media, Trade Unions
Development and improvement of infrastructure	Re-orient investment and development of infrastructure towards productive industries and sectors	Size and Growth of Infrastructure	Budgetary Allocations	Roads Infrastructure in Health and Education Infrastructure;	Ministry of Public Works & Transport (MoPWT)	Ministries of Natural Resources; MoPWT; MoHSW; MoET; Private Sector; MoLG	Ongoing	Improved infrastructure development led to Reduction of the Number of Kilometres travelled to nearest service centre;	200,000	MoFDP, Private Sector
	Transform the industrial production structures for increased processing and product diversification;	Growth and Expansion of infrastructure	Reports	Expansion of MCA funded Utilities and Road Infrastructure; Investment in Health and Education Infrastructure	Ministry of Public Works & Transport (MoPWT)	Ministries of Natural Resources; MoPWT; MoHSW; MoET; Private Sector; MoLG	2 yrs	Increased product processing and diversification	2,000,000	
Sub Total:									\$14,300,000	



Objective II: Accelerate socio-economic development to achieve sustainable development and poverty eradication

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Improving agricultural productivity, technologies and marketing systems/ and market- ing systems/ strategies	Develop and implement marketing systems and strategies for agricultural products	Agricultural sector growth rate and increased agricultural productivity	Percent increase in agricultural growth and productivity	PRSP and MDG Programmes	Min of Agriculture	Min of Agriculture, MoFP, Science and Technology and Farmers	3 yrs	National Food Security	2,000,000	Min of Agriculture, MoFP, Science and Technology and Farmers
	Provide trainings to Farmers	Training programmes	Reports	PRS and MDG Programmes	Min of Agriculture	Agriculture, Science and Technology and Farmers	3 yrs	Acquisition of improved farming skills	100,000	Min. of Agric and Farmers Associations
	Provide credit facilities to farmers	Increased in number of farmers accessing facilities	Reports	PRSP and MDG Programmes	Min of Agriculture and Banking sector	Farmers' associations, Agriculture, MoFP, Science and Technology and the Banking sector	3 yrs	More farmers accessing credit	5,000,000	Min. of Agric, Central Bank and Farmers Associations



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Poverty eradication	Promote labour intensive works to absorb unskilled and semi-skilled labour force Employment creation (???)	Increased employment	Reduced number of unemployed in the labour market and increased absorptive capacity of human resources	Private Sector Development Plan (PSD) within the country's MCC Compact Forestry and land reclamation programmes Labour construction programmes for roads	MPWT, MFLR, MoLG, MoFDP and Ministry of Agriculture and Food Security	All ministries; Organised Civil Society and Cooperating Development Partners;	3 yrs	Eradication of Extreme levels of poverty; Increased disposable income among citizens;	63,000, 000	Ministry of Labour
	Accelerate implementation of the growth strategy	Functional and effective National Development Plan	Progress report and budgetary allocations	On-going	MoFDP, line ministries, Local and districts councils,	Line ministries, Local and districts councils, CSOs,	3 yrs	Enhanced economic growth and development	Costed under Objective II of EGM	Parliament, CSOs, Media
	Develop monitoring and evaluation committees for all ministries which include planning unit, private sector and CBOs	monitoring and evaluation committees	Progress reports Functional committees	Non-state actors capacity building programme (EU)	MFDP	MFDP MTICM Private Sector	3 yrs	Improved service delivery	100,000	MFDP MTICM Private Sector



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Implement PRS and MDGs Programmes (reflected in all detailed actions, delete)	Change in poverty levels	Poverty index and records	Block farming	MoFDP and Ministry of Agriculture and Food Security	MoFDP and Ministry of Agriculture and Food Security, all Line Ministries, CSOs, Farmers' associations	On-going	Poverty reduction	50, 000	Ministry of Labour
Increase of social security	Develop social security scheme	Comprehensive social security scheme	Number of people on social welfare schemes	Free health services, scholarships for orphans and non-contributory pension scheme for the elderly Cash transfers for orphans (EU pilot)	MoLE MoFDP MoHSW	Ministries of Finance, Education, and Health	3 yrs	Increased living standards of the elderly and vulnerable, and reduced poverty levels	10,000,000	Ministries of Finance, Education and Health
	Create a new department to coordinate children's issues effectively		Households		Ministry of Gender, Youth, Sports & Recreation	Ministry of Labour and Employment	3 yrs	Reduced numbers of children loitering in the streets.	200,000	Ministries of Finance, Education TUs and Health



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Increase of youth employment	Promote Investments to support youth focused programmes;	Visible participation of youth in the employment and productive sectors;	Increased support for youth programmes	A UNDP sponsored Environmental Youth Core in MoLG	Ministry of Gender, Youth, Sports & Recreation	Ministry of Labour and Employment private sector, LND, Min of Trade, youth organizations	3 yrs	Reduced numbers of unemployed and loitering youth in the streets.	1,000,000	Ministries of Finance, Education TUs and Health
Sub Total:									\$81,450,000	



Objective III: Strengthen policies, delivery mechanisms and outputs in key social development areas (including education for all, combating HIV and AIDS and other communicable diseases)

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Periodic review and development of laws and policies	Develop the legislation and Policies in key development areas	Consultative Workshops and Commissioning of Consultants	Gazetted Amendments and publication of policies	Law Reform Commission	Ministries of Law, Constitutional and Parliamentary Affairs; Education and Health NAC	MoLG; Gender; National AIDS Commission (NAC); Organised Civil Society; Christian Council of Lesotho; CHAL	3 yrs	Enhanced, efficient and timely social service delivery	5,000,000	Cabinet Steering Committee
	Enact Education Amendment Bill	Bill in place	Gazetted Legislation	On-going	MoET, Law Office	MoET, Teachers Associations and Trade Unions, Media, CSOs, Schools' Proprietors	6 mths	Improved access to and retention of learners within the educational system and creation of a conducive learning environment	10,000	Parliament, Teachers Associations and Trade Unions, Media, CSOs, Schools' Proprietors



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Improvement of access, quality and outcomes of education systems at all levels	Undertake studies and prepare investment plan for facilitating expansion and access to complete and quality basic secondary and vocational education	Commissioning of Studies, Consultancies and Surveys	Reports	Free Primary Education (FPE)	MoET, MoLE, Technical and Vocational Training Institutions	MoET, MoLE, other line ministries, CCL, LANFE, Teaching Service Commission; Ecol (Examinations Council of Lesotho), Teachers' associations	3 yrs	Improved quality of Education and Productive Labour Increased secondary school enrolment	500,000	Parliament, LANFE, Teaching Service Commission; Ecol (Examinations Council of Lesotho), Teachers' associations
	Carry out public outreach programmes to promote enrolment of boys in schools	Number of radio programmes Number of campaigns	Number of boys enrolled in schools	On-going	MoET, CSOs	MoET, MGY/SR, CGPU, MoHA, MoLE, MoHSW, CSOs, FBOs, Teachers Trade Unions and Associations	3 yrs	Increased number of boys enrolled in schools	50,000	CSOs, FBOs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Expand programmes on early childhood education	Increased number of early child education centres	Numbers of early childhood centres	On-going	MoET, CSOs	MoET, MGYSR, CGPU, MoHA, MoLE, MoHSW, CSOs, FBOs, Teachers Trade Unions and Associations	3 yrs	Increased number of children enrolled in early childhood centres	10,000	MGYSR, CGPU, MoHA, MoLE, MoHSW, CSOs, FBOs, Teachers Trade Unions and Associations
Provision of accessible and affordable health services	Improve health infrastructure, management systems and personnel	Increase of health centres and expansion of hospitals and adequate staffing	Records	Health Reforms	Ministry of Health and Social Welfare CHAL	All Ministries, in particular MoLG, National AIDS Commission (NAC); Organised Civil Society; Christian Council of Lesotho; CHAL Medical association	3 yrs	Improved Health Services and a Healthy Nation	6,000,000	Ministry of Health and Social Welfare CHAL



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Train health personnel Implement programmes to reduce infant and maternal mortality	See above column Enhanced plans, programmes and budget aiming at reducing infant and maternal mortality	Reports	On-going	Ministry of Health and Social Welfare CHAL	All Ministries, in particular MoLG;; National AIDS Commission (NAC); Organised Civil Society; Christian Council of Lesotho; CHAL; Medical association	3 yrs	Improved Health Services for children and child bearing mothers	6,000,000	
An integrated and holistic approach to combatting HIV and AIDS	Combat the spread of HIV and AIDS and develop effective support systems to mitigate impact on affected households	Regular consultative sessions and meetings	Regular Reports	Global Fund Initiative and MCC Compact	Ministry of Health and the AIDS Commission (NAC)	All Ministries, the Private Sector; Organised Civil Society and Labour	3 yrs	A more comprehensive and efficient HIV and AIDS programme	7,500,000	Cabinet , Private Sector; Organised Civil Society



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Increase access to anti-retroviral treatment	Availability and access of ARTs in health facilities in the country	Reports	On-going	NAC, Ministry of Health, CHAL	All Ministries, in particular MoLG; National AIDS Commission (NAC); Organised Civil Society; Christian Council of Lesotho; CHAL, Medical association	3 yrs	Increased life expectancy	3,000,000	Parliament, CSOs, Media
	Increase HIV/AIDS awareness programmes-targeting cultural / behavioural practices	Strategic plans and programmes in place	Reports	On-going	NAC, Ministry of Health, CHAL, CSOs	All Ministries, in particular MoLG; National AIDS Commission (NAC); Organised Civil Society; Christian Council of Lesotho; CHAL, CSOs, Medical association	3 yrs	HIV/AIDS competent nation	4,000,000	Parliament, CSOs, Media
Sub Total:									\$32,070,000	



Objective IV: Ensuring affordable access to water, energy, finance (including micro-finance), markets and ICT to all citizens, especially the rural poor

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Development and provision of improved infrastructure particularly the rural sector	Improve access to clean water and sanitation	Consultative meetings and Commissioning of studies Increased size of population with access to water	Reports and Minutes	Expansion of MCA funded Utilities and Road Infrastructure; Investment in Health and Education Infrastructure;	MoNR	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.	3 yrs	Improved access and mobility in the rural sector	1,500,000	Corporate Governance Committee, Cabinet, Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.
	Increase energy generation capacity, including investment in alternative sources of energy such as solar and wind	Consultative meetings with Community Councils and Chiefs Increased size of population connected to the power grid	Reports and Minutes	Expansion of MCA funded Utilities and Road Infrastructure; Investment in Health and Education Infrastructure;	MoNR	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.	3 yrs	Improved access and mobility in the rural sector	1,350,000	Cabinet, Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Improve treatment of sewage and trade wastes to reduce surface water pollution and seepage of toxic substances into the environment	Consultative meetings and Commissioning of studies Waste treatment in key industrial sites	Reports and Minutes	Expansion of MCA funded Utilities and Road Infrastructure; Investment in Health and Education Infrastructure;	MoNR	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.	3 yrs	Improved access and mobility in the rural sector	5,000,000	Cabinet, Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.
	Develop and implement comprehensive infrastructure plans to ensure environmentally clean and sustainable sewerage and settlement patterns	Consultative meetings and Commissioning of studies Physical plans for all new settlements	Reports and Minutes	Expansion of MCA funded Utilities and Road Infrastructure; Investment in Health and Education Infrastructure;	MoNR	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.	3 yrs	Improved access and mobility in the rural sector	7,500,000	Cabinet, Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements.



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Review the existing legislative and policy frameworks towards their improvement for poverty sensitive and yet sustainable tariff setting mechanisms and enforcement	Working sessions, workshops and commissioning of assignments	Reports and Minutes		MoTICM	Ministries of Public Works & Transport; Health & Social Welfare; MTICM; LNDC; Business Chambers; Organised Civil Society Organisations & Labour Movements	2 yrs	Acts of Parliament; Policies and Guidelines	700,000	Cabinet Steering Committee
	Improve access to information and communication technology for connectivity to basic services.	Expanded and efficient services Increased radio, TV and telephone signal coverage Finalised universal access policy	ICT Reports	On-going	Ministries of Foreign and Home Affairs	All Ministries; Organised Civil Society Networks and Organisations and the Private Sector.	Ongoing	Improved Communication systems	30,000	Parliament, Organised CSOs and Foreign Affairs



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Improve transport infrastructure for trade facilitation and access to basic services									
Improving access to micro-credit	Develop and implement micro-financing policy and review micro-financing institutions for rural poor	Policy documents and number of institutions reviewed	Reports	On-going	MoTICM, MoFDP,	BEDCO, CBL, private sector, SMEs, Co-ops	3 yrs	Increased economic participation of SMEs and the rural poor	50,000	Private sector,
Sub Total:									\$16,130,000	



Objective V: Progress towards gender equality, particularly equal access to education for boys and girls at all levels

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
Eliminate harmful and discriminatory cultural and traditional practices and prevent teen pregnancies and early marriages	Review gender discriminative legislation and implement the National Gender & Development Policy	Regular review sessions with the stakeholders	Regular Monitoring and consultative reports	FAMILY Life Education (FLE) and development of life skills education curriculum	MGYS, MoET, CSOs	All ministries, CCL, LANFE, TSC, CSOs Development partners	3 years	Increased enrolment of pupils in schools, particularly OVC	3,000,000	Parliament, CSOs, media.
Acceleration of gender equality	Provide equal opportunities and participation by women and men, girls and boys in the development process in order to promote a better standard of living for all and to achieve economic efficiency;	Regular consultative Sessions government and Stakeholders	Regular Reports	FLE	MoJ; MoET, MoHSW; CSOs;	All ministries, CCL, LANFE, Teaching Service Commission; Ecol (Examinations Council of Lesotho)	3 yrs	Increased enrolment of pupils in schools, particularly OVC	1,000,000	Parliament, CSOs, media



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Timeframe	Expected Output	Estimated Cost (USD)	M & E Agency
	Provide equal access to education, training and health services and control over resources, including land and credit;	Commissioning of surveys, studies and consultative workshops.	Regular Reports	FPE and Free health care services in Government and CHAL Hospitals	MoET, MoHSW, CHAL;	All ministries, CCL, LANFE, Teaching Service Commission; Ecol (Examinations Council of Lesotho); CSOs;	3 yrs	Increased enrolment and improved health conditions for pupils in schools, particularly OVC	4,000,000	Parliament, CSOs, media
	Conserve Basotho cultural practices and legislate against negative ones	Reviewed and amended legislation	Report	On-going	MoJ, MoET, MoHSW, Law CSOs, Law Reform Commission	All ministries, CSOs,	1 yr	Increased protection from dangerous cultural practices and ritual	30,000	Parliament, CSOs,
	Introduce measures to increase women's representation in parliament	Developed policy on gender quota for political party executive committees and party lists	Progress reports	On-going at local level	IEC, political parties	IEC, political parties, Parliament, CSOs, MGYSR	3 yrs	Effective women's participation in decision making structures (Parliament, councils and political parties)	10,000	Parliament, CSOs,



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Improve collection of gender disaggregated data	Developed Gender indicators framework and data base	Reports and publications	On-going	BOS, MGYSR	BOS, MGYSR, All Ministries, Research Institutions, CSOs	3 yrs	Availability of gender disaggregated data	30,000	MFD, MGYSR, Research Institutions, CSOs
Sub Total:									\$8,070,000	



Objective VI: Encourage broad based participation in development by all stakeholders at all levels

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Increase effective community participation in policy arena (formulation, implementation and monitoring)	Institutionalize stakeholder participation in the development process	Number of policies and legislation developed through public participation	Reports	On-going	Parliament MoFDP	MoLG and All Ministries; Business Chambers; Organised Civil Society Organisations & Labour Movements.	3 yrs	Institutionalisation of consultative Stakeholder processes	50,000	Parliament
	Improve public participation in the Parliamentary Reforms fora and processes	Regular Consultative Stakeholder Sessions	Reports	On-going	Parliament MoFDP	MoLG and all Ministries; Business Chambers; Organised Civil Society Organisations & Labour Movements,	3 yrs	Institutionalisation of consultative Stakeholder processes	100,000	Parliament



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Conduct training for chiefs to enhance their effectiveness in carrying out their duties	Number of workshops held	Reports	None	MoLG, CSOs	MoLG, CSOs, Chiefs, Local authorities and councils	3 yrs	Empowered and effective chieftainship	100, 000	Parliament, College of Chiefs
	Facilitate easy access to infrastructure and services for people with disability to enhance their participation in development	Policy developed Number of public sector and private sector buildings compatible with the needs of people with disability	Reports	On-going	MoPWT and all line ministries, private sector, CSOs	MoLG and all Ministries; Business Chambers; Organised Civil Society Organisations & Labour Movements	3 yrs	Competent society to needs of people with disability	1,000, 000	Parliament, CSOs
Sub Total:									\$1,250,000	
TOTAL:									\$153,270,000	
GRAND TOTAL:									\$194,545,000	



Cross-cutting issues

1. HIV and AIDS

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Development of HIV and AIDS competent nation	Combat the spread of HIV and AIDS by fostering collaboration and synergy among public, private and CSOs	Collaboration established between public, private and CSOs	Reports	Ongoing	NAC	All Ministries, particularly MoLG, District AIDS Task Forces, MoHSW, MoFDP, MTICM; Organised Civil Society including LENEPWHA; LCN; International Development Partners.	On-going	An HIV and AIDS competent society.	2,000,000	Parliament
	Promote and support the mainstreaming of HIV and AIDS into all sector policies, programmes and budgets	Public sector, private sector and CSOs mainstream HIV/AIDS in policies, programmes and budgets	Reports	Ongoing	NAC	All Ministries, particularly MoLG, District AIDS Task Forces, MoHSW, MoFDP, MTICM; Organised Civil Society including LENEPWHA; LCN; International Development Partners.	On-going	An HIV and AIDS competent society.	500,000	Parliament
Sub Total:									\$2,500,000	



2. Gender mainstreaming

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Development of Gender Mainstreaming Strategies	Promote and support the mainstreaming of HIV and AIDS into all sector policies, programmes and budgets	Public sector, private sector and CSOs mainstream HIV/AIDS in policies, programmes and budgets	Reports	Ongoing	NAC	All Ministries, particularly MoLG, District AIDS Task Forces, MoHSW, MoFDP, MTICM; Organised Civil Society including LENPWA; LCN; International Development Partners.	On-going	An HIV and AIDS competent society.	500,000	Parliament
	Regularly review Legislative and Policy Frameworks in relation to integrating gender perspectives.	Regular Consultative Stakeholder workshops, conferences and meetings Commissioning of Expert Teams to undertake related professional assignments	Reports, Draft Laws, Policies and Guidelines	On-going	MoGYSR	All Ministries; Organised Civil Society Networks and Organisations and the Private Sector.	2 yrs	Enhanced legal framework compatible with gender equality	100,000	Parliament



Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
	Empowerment and Capacity Building to public, private and civil society agencies in order to integrate gender perspectives in their policies and programming.	Empowerment programmes in place	Reports	On-going	MoGYSR	All Ministries; Organised Civil Society Networks and Organisations and the Private Sector.	On-going	2 yrs	100,000	Parliament
Sub Total:									\$700,000	
TOTAL:									\$3,200,000	



Country specific issues

1. National sovereignty and regional integration

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Harmonisation of immigration and citizenship laws	Review of the national immigration and citizenship laws and bilateral agreements on the movement persons, goods and services.	Easier acquisition of permits and removal of cross border barriers	Reports	On-going	Ministries of Foreign and Home Affairs	All Ministries; Organised Civil Society Networks and Organisations and the Private Sector.		Harmonised of immigration and citizenship laws	50,000	Parliament
	Negotiate with RSA on facilitating access to the sea									
Sub Total:									\$3,050,000	



2. Traditional governance

Priority Issue	Required Action	Monitoring Indicator	Means of Verification	Ongoing Initiative	Implementing Agency	Stakeholder	Time-frame	Expected Output	Estimated Cost (USD)	M & E Agency
Harmonisation of laws and policies on the role of chiefs versus local authorities	Develop and/or consolidate policies Review	Decentralisation framework								
Sub Total:									\$80,000	
TOTAL									\$1,130,000	



ANNEXURE II



RESPONSE OF THE GOVERNMENT OF
THE KINGDOM OF LESOTHO
TO THE COUNTRY REVIEW MISSION REPORT



22 MAY 2009



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1. Introduction

The Government of the Kingdom of Lesotho would like to express its gratitude to the APRM Country Review Mission for producing its Report on Lesotho. Lesotho Government is also grateful to the APRM Panel for setting aside time to consider the Country Review Mission Report. It is the view of the Government of Lesotho that, while there are some inconsistencies, contradictions and factual errors, on the whole the report is balanced and reflects the views of the general populace of Lesotho on the actual situation that prevails in the country under the four themes on which Lesotho is being reviewed.

The Government avails itself of this opportunity to comment briefly on some, though not all, of the assertions that are made in the report which need clarification under each of the four thematic areas of the review, namely; Political and Democratic Governance, Economic Governance and Management, Corporate Governance and Socio Economic Development.

2. Democracy and political governance

2.1 Standards and Codes

Ratification of International Agreements

The main thrust of the findings of the Country Review Mission under the section dealing with Standards and Codes (Para.123 to Para.130) is that although Lesotho has signed a vast majority of International Covenants and Conventions, some of which pertain to the promotion and protection of Human Rights, it lags in the ratification, domestication, implementation and reporting on the various international agreements. There is also a strong feeling that contrary to good practice, the Executive organ of government retains the authority to conclude international treaties, including decisions on signature and ratification, without the involvement of Parliament. The mission recommends that treaties and conventions should be scrutinized by the Legislature before they are acceded to by the Executive.

Response

Ratification: In the opinion of the Government, the suggestion that Lesotho dramatically lags in the ratification, domestication, implementation and reporting on the various regional and international agreements is an over generalization. It is true that there are some international agreements which Lesotho has signed and has not yet ratified, but these are in the minority. Lesotho has the record of performing very well in speedily signing and ratifying agreements of the SADC, African Union, ILO and the United Nations.

Domestication: With regard to domestication of international treaties into local laws, it can be conceded that, to a certain extent, Lesotho lags behind in respect of some treaties. But, it has to be acknowledged that not all international agreements need domestication into local legislation for implementation.



Reporting: In terms of reporting on international and human rights instruments, Lesotho's record can be characterized as somewhat mixed in that, for those human rights instruments under ILO, the country is up-to-date in its reporting, while for some United Nations Instruments a number of periodic reports are outstanding, as reflected in the matrix (**see Annex 1**).

Implementation: Unfortunately, the assertion that Lesotho lags in the implementation of international agreements it has ratified, is not supported by empirical evidence and therefore has no credibility.

Involvement of Parliament: Lesotho follows the Westminster Model under which treaty making involves the exercise of royal prerogative power. By implication, signatures, ratifications or accessions to treaties are all executive acts. The government places before Parliament, for information, all major agreements or commitments it enters into. The role of Parliament is pronounced during the domestication process when international treaties are incorporated into national legislation and tabled before Parliament as bills.

2.2 Objective I: To prevent and reduce intra-and-inter-country conflicts

National Peace Architecture

In paragraphs 132 to 170 of the report the main contention of the assessment is that Lesotho has been prone to political conflict, particularly election-related disputes that often lead to public unrest and violence. The CRM indicates that there have also been institutional conflicts in the form of confrontations involving armed state apparatuses and the government, as well as socio-economic conflict which revolves around access to economic resources and social positions. It therefore recommends that Lesotho should develop comprehensive national peace architecture, which includes structures for managing national conflicts on a permanent basis at all levels of society.

Response

Lesotho's Conflicts: Indeed it is true that since 1970 Lesotho has been dogged by a history of instability that is particularly political in origin. Conflict in Lesotho is mainly a result of political intolerance and the culture of political parties who do not want to accept the verdict of elections, despite the fact that since 1993 elections have been declared free and fair and consistently peaceful. These conflicts have been resolved through domestic mechanisms supported by international and regional intervention. The most significant of these home-grown structures and initiatives are, the Interim Political Authority (IPA), which was set up in the wake of the conflicts that arose after the 1993 general elections; and the adoption, in 1998 of the unique Mixed Member Proportion (MMP) electoral model, which resulted in greater inclusiveness in the political party representation in the National Assembly. As the report notes, this model is working effectively. Churches, Traditional Leaders and other Non-Governmental Organizations have also had a role.

It is also important to note that the Government of Lesotho is collaborating with its international development partners and local stakeholders, with a view to strengthening the local institutions that promote peace, reconciliation and tolerance.



2.3 Objective II: To foster constitutional democracy, including periodic political competition and opportunity for choice, the rule of law, a Bill of Rights and the supremacy of the Constitution

Unionization of Public Servants

Under this section, vide paragraphs 171 to 199, the Country Review Mission rightly submits that the Lesotho political system allows free and fair competition for political power and that the supremacy of the constitution is not in doubt. The CRM also confirms that there is strong political will to implement decentralization. The Government concurs with these observations.

However, an interesting assertion is made in paragraph 181, to the effect that, while overall there is freedom of association in Lesotho, civil servants are barred from joining trade unions or from unionizing.

Response

Public Servants' Unions: It is true that civil servants are not allowed to form trade unions but, according to the Laws of Lesotho, civil servants are free to form and join associations. The Public Service Act of 2005 does provide for the freedom to form associations by public servants. Through these associations public servants are able to negotiate and bargain with Government in the same way that they would through trade unions. The situation that obtains in Lesotho, in this regard, is shared by most, if not all, developing countries where the government is the main employer, including in sectors that are expected to deliver essential services.

Powers of the National Assembly

In paragraphs 189 and 190 of the report, the Country Review Mission refers to the views expressed by stakeholders to the effect that, in Lesotho "the National Assembly is weak and has limited countervailing mechanisms to effectively check the Executive." Also, that Parliament does not have any say in ratifying the appointments of key state functionaries and Ambassadors; the Executive monopolizes these appointments. Concern is also raised again about non involvement of Parliament in the signing and ratification of treaties.

Response

National Assembly: The assertion regarding the weakness of the National Assembly is not supported by facts and the record of the performance of the Lesotho Parliament. The National Assembly has established several portfolio committees that exercise oversight function over all ministries of Government (**see Annex 2**). These committees include the Public Accounts Committee which has the function of oversight over the use of public funds. Membership of the committees includes representatives of opposition parties and in most cases, representatives of the opposition chair the committees. The committees have been effective in instilling transparency and accountability in the line ministries.



Signing of Treaties and Ratification of Appointments: The involvement of Parliament in the signing and ratification of treaties is governed entirely by the Constitution of Lesotho, and does not have a bearing on the strength or weakness of the legislature. The ratification of appointments is, in the like manner, governed by the constitution and the principle of separation of powers under the system of government in use in Lesotho.

Powers of the Senate

In paragraphs 189 and 190 of the Report, the CRM also underscores the limited effectiveness of the Senate in exercising oversight function over the Executive. Concern is expressed that the Senate reviews Bills emanating from the National Assembly but cannot initiate such, and has a very limited role in the national budgeting process. Just like the National Assembly, the Senate is also not involved in the scrutiny and discussion of treaties and international agreements before they are signed.

Response

The Senate: According to the Constitution of Lesotho of 1993, the Senate consists of 22 Principal Chiefs and 11 other Senators who are nominated by His Majesty the King with the advice of the Council of State. The functions and powers exercised by the Senate are modeled on the British Westminster Model. In this regard, the Senate is a review chamber and has review powers over the National Assembly. The Senate utilizes its review powers very effectively in Lesotho. It can veto bills from the National Assembly. In the recent past, the Senate exercised its powers to veto a Bill on the Sixth Amendment of the Lesotho Constitution after the Bill was passed by the National Assembly. This example alone underlines the role and power of the Senate. It also has to be noted that no law in Lesotho prevents members of the Senate from initiating bills for consideration by Parliament as it is implied in the Report. Motivation for bills can come from either government or individual members of Parliament.

Composition of the Council of State

Paragraph 191 refers to concern raised by stakeholders regarding composition of the Council of State. The concern is that the Council of State, although a key organ of governance, comprises a number of public servants who are not elected officials. The recommendation is that this arrangement should be changed in favour of more representation by elected officials and other non-state stakeholders.

Response

Council of State: Here again the assertion that composition of the Council of State is skewed in favour of unelected public servants is not supported by the reality of the situation on the ground. The Council of State consists of fourteen (14) members according to the Constitution of Lesotho. Membership of the Council of State reflects representation of the three arms of Government, namely, The Executive, Legislature and the Judiciary. Only the Attorney General, the Commissioner of Police and the Head of the Armed Forces are members of the Public Service (**see Annex 3**).



DECENTRALIZATION

General comment

CRM is invited to recall that Local Government Act was enacted in 1997. The plan was to concurrently hold local and national (Parliamentary) elections in May 1998. However IEC capacity constraints made this impossible. Post elections riot of 1998 shifted national agenda priorities to restoration of political stability and preparing the ground for holding fresh elections. The shift in priorities resulted with a review and amendment of Local Government Act in 2004. Local Government elections were held in April, 2005.

The Government recognizes that Lesotho's assessment covers the period 1996 to 2006. This means that Lesotho's decentralization is being assessed or reviewed exactly one year after its establishment. Country Review Mission's report has covered issues beyond 1996 to 2006 period. CRM should note that since April 2005, major milestones have been achieved.

Fiscal Decentralisation

Paragraph 193 raises a concern that up to now councils are yet to generate revenue and impose levies and taxes. There is also an allegation that councils resist to be audited.

Response

Public Finance Laws are being reviewed to among others facilitate the undertakings of these functions by councils. With regard to resistance to audit, the truth of the matter is that councils do not resist to be audited. The Auditor General has already started auditing councils.

Women participation in decision making within councils

Paragraph 194 raises a stakeholder observation that although the local elections of 2005 had a proportionately higher women representatives in the local councils, their levels of participation in deliberations within councils had not improved, leaving men to be principal decision makers.

Response

Local Government Amendment Act 2004, section 4, sub-section 3 provides for reservation of 30% seats in local councils. After 2005 Local Government elections, women representatives exceeded the target by 58%. Since the elections the Government has been addressing the issue of active participation of both men and women through the on going training programmes that are aimed at strengthening the competence and confidence of councilors. It is, therefore, inaccurate to depict that up to now women councilors are overshadowed by their men counterpart.

Financial and human resource capacity of Local Councils

Paragraphs 194 and 195 refers to the concerns raised by stakeholders alleging that local councils could not function appropriately because they do not have adequate financial resources and lacked human capacity.



Response

The Government has, within its limited financial capacity, been incrementally allocating funds to councils for capital and recurrent expenditure. For example, heavy plant and machinery for road construction has been procured for councils. Furthermore, since Local Government elections in 2005, Local Councils' human resource capacities have been strengthened through staff transfers from Central Government, appointment of new staff and training. Various stakeholders (councilors, chiefs, central government staff, councils' staff, Parliamentarians, civil society, etc) are continuously being trained on the concept of decentralization, roles and responsibilities, etc. Tools and guidelines assisting councilors and staff to execute their functions have also been developed.

Clarification of roles and responsibilities of councils and chiefs

Paragraphs 196 and 199 refer to the tension between traditional authorities and local government councilors which is attributed to the lack of a clear definition of duties and responsibilities of local government. It is also cited that some chiefs accused councils on encroaching on their authority and responsibility especially in land allocation.

Response

Before 1979, Chiefs chaired Land Advisory Committees to allocate land per the provisions of the 1973 Land Act. After the adoption of the Land Act 1979, Chiefs continued to serve as ex-officio members of Land Committees in both rural and urban areas (Section 12 of Land Act 1979 refers) In this capacity Chiefs served as Chairpersons of the Land Committees. In 1991 Development Councils were introduced per the provisions of Development Councils Order No.18 of 1991. These councils did not have among their functions, land allocation responsibilities (Section 5 of Order No.18 Of 1991). In 1992 Land (Amendment) Order No. 6 was enacted amending the 1979 Land Act, and including land allocation to the functions of Development Councils. This Order introduced Village Development Committees which replaced Land Committees in land allocation function. Chiefs continued to serve as ex-officio members and Chairpersons of these structures. In 1994, Development Councils (Amendment) Act No. 7 was enacted. The Act removed chairmanship responsibilities of Chiefs within the VDCs. Members of VDC could now elect any member as their Chairperson. In 1994 VDCs were replaced with Interim Local Councils. In these Councils, Chiefs continued to have no ex-officio membership, but could be elected into these structures if the electorate wished to elect them. The enactment of Local Government Act 1997 assigned land allocation responsibilities to Councils. Schedules I and II of the Act refers. Councils perform this function through their Standing Committees on Land. Therefore chiefs have no mandate over land and site allocation. Currently there is no law assigning chiefs any responsibility on land allocation.

Land allocation powers

Paragraph 198 attributes the root of the apparent confusion to the non-congruence of the Chieftainship Act 1968 and Local Government Act 1997. It goes on to say that Chieftainship Act 1968 gives power of land allocation to Chiefs while the same function is also provided for in the Local Government Act 1997.



Response

Schedule 1 and 2 of the Local Government Act 1997 provides details on the functions of Councils which also include land and site allocation, while Chieftainship Act 1968 provides, in section 6 and 7, information on the general functions of Chiefs which do not include land and site allocation. The statement is therefore inaccurate. There is no article in the Chieftainship Act 1968 providing for such power for chiefs.

Recommendations by CRM

Paragraph 199 refers to the CRM recommendation in bullet three that Chiefs be reinstated in the Councils' Standing Committees on Land and to preside over those Committees' sessions.

Response

This will be extremely difficult to consider since currently there is no law in Lesotho that provides for Chiefs' chairmanship of land allocating committees. There are equally no laws in Lesotho that prevent the election of any Chief to the membership of any Council's Standing Committee on Land. Any Chief who commands the support and confidence of the majority of members of any local council can be elected to the membership of the Council's standing committee on land, and to the chairmanship of that committee, thus fully assume and execute that committee's functions. It will be highly undemocratic to impose any Chief on any democratic structure/s.

2.4 Objective III: To promote and protect economic, social, cultural, civil and political rights as enshrined in all African and International Human Rights instruments

The Government of Lesotho generally agrees with the findings of the Country Review Mission in this area. The assertions made regarding the domestication of international conventions in paragraphs 218, 219 and 220 have already been responded to in the section dealing with Standards and Codes.

2.5 Objective IV: To uphold the separation of powers and the rule of law, including the independence of the judiciary and an effective legislature

Overlapping Membership and Functions of The Three Arms of Government

Paragraphs 241 and 242 in particular refer to the nature of separation of powers in Lesotho as provided for by the Constitution. However, an assertion is made that "the overlapping memberships of various institutions of state, combined with the apparent overlap and duplication of certain functions, militate against efficient decision making and implementation."

Response

Separation of Powers: This section of the Report is replete with contradictions. Be that as it may, it has to be noted that the functions, responsibilities and roles of the King as a constitutional monarch in



relation to other organs of governance are clearly and properly regulated by the constitution. The King is the head of state and the executive authority of Lesotho is vested in him. However, he exercises that authority through officers and authorities of the Government, mostly and importantly, the Cabinet, which is headed by the Prime Minister as the head of government. There is, accordingly, no overlap between the King and Cabinet.

The Council of State is composed of all the three arms of government to advise the King as the Head of state deliberately. This is a constitutional arrangement which is working very well for the country and does not in any way militate against efficient decision making. The fact that Judges, for example, are members of the Council of State, does not in any way affect their functional independence. There are clear constitutional checks and balances to avoid clouding of functions. Absolute separation of powers is not found anywhere in the world.

Conditions of Service of the Judges

In paragraph 246 a serious allegation is made which must be corrected. The allegation is that “conditions of service of judges are reported to be unfavourable and deteriorating, which puts a dampener on morale. The independence of the judiciary is also reported to be compromised by lack of transparency in appointments to the bench.”

Response

Conditions of Service: The truth of the matter is that when compared to those of equivalent officers in the three arms of government, judges enjoy some of the best conditions of service in the Lesotho public service. The benefits of the judges include subsidized accommodation, telephones, electricity and water, good remuneration by local standards, decent vehicles for transportation (Mercedes Benz) and good pensions which are not enjoyed by other strata of the public service. Their retirement age is 75 years while for other strata of public service it is 60 years. It is therefore far from the truth that the service conditions of judges are unfavourable and deteriorating.

Appointments: As for the appointments to the bench, these are made strictly in accordance with the provisions of the constitution of Lesotho. The independent Judicial Service Commission chaired by the Chief Justice, is responsible for the appointment of Judges. The allegation of lack of transparency in appointments therefore is not true.

Narratives relating to the alleged weakness of the legislature are again raised in paragraph 250 but this has been commented on in the previous sections of this Report.

2.6 Objective V: To ensure an efficient, effective, and accountable Public Service

Performance of the Public Service

An observation is made by the Country Review Mission in this section that public perception of the public service and its performance is negative.



Response

Public Service Performance: Indeed that perception exists. The Government can only highlight the fact that serious initiatives are already being taken to remedy the apparent lack of good performance on the part of the public service. These initiatives include public service reform programmes, introduction of performance appraisal systems, introduction of remuneration incentives and introduction of Integrated Financial Management System (IFMIS) designed for the achievement of financial management efficiency and accountability to the public through its elected representatives, Parliament.

2.7 Objective VI: To fight corruption in the political sphere

Corruption

The findings of the Country Review Mission, particularly in paragraph 274 are to the effect that “the CRM appreciates Government’s concern about the scourge of corruption and its determination and efforts to address the problem of corruption and lack of accountability in the public sphere.”

Response

Anti-corruption Efforts: The Government concurs with the finding of the CRM in this area. There is, however, need to correct an assumption in paragraph 276, that the office of the Auditor General is part of the Ministry of Finance. The office of the Auditor General is in fact an independent office in accordance with the Constitution of Lesotho, and its reports go to Parliament where Public Accounts Committee normally meets with the Auditor General.

3. Economic governance and management

3.1 Overview

Changes in the Structure of the Economy

In the opening section of the overview the report indicates that for the periods 1980-87 and 1987-97, two major changes occurred. These are the launching of the Lesotho Highlands Water Project (LHWP) and the arrival of the textile and garments industry from across the border in South Africa.

Response

The correct position is that during the first phase, 1980 to 1987, the major economic shift was attributable to the arrival of the manufacturing industries from South Africa that relocated as a result of the trade restrictions that were imposed on South Africa during the apartheid era. The investors were taking advantage of pioneer industry incentives introduced by Lesotho. The second phase, 1987 to 1997, saw the launch of LHWP and large scale investment in the textile and garments industry from South-East Asia.



HIV and AIDS Prevalence and Mitigation

In Para 335, the report says that about 26 per cent of adults are living with HIV/AIDS and that the costs of the pandemic are borne privately by households.

Response

The source of the figure for adult prevalence rate has not been acknowledged in the report. The Government of Lesotho uses the HIV and AIDS national prevalence rate of 23.2% (Lesotho Demographic Health Survey 2004, HIV Sentinel Surveillance 2007). The Government has launched a number of programmes to mitigate the impact of HIV and AIDS. These cover, prevention, care and treatment, free access to primary health care, Know Your Status campaigns (KYS), free voluntary counseling and testing, and provision of ART free of charge. The (GoL) also made a policy that 2 per cent of the budget should be allocated to sectoral HIV and AIDS programmes. In fact, the awareness and education campaigns about HIV and AIDS and testing is being led by His Majesty the King, Church Leaders and other prominent public figures. HIV and AIDS education has been introduced in the curriculum of the Teacher's Training College. There are also networks of Pediatric HIV and AIDS Clinics.

Status of Economic Statistics in Lesotho

The Government of Lesotho acknowledges that previously, the economic statistics was not adequately comprehensive, consistent, reliable and to some extent did not conform to international standards as pointed out in Para 345.

Response

The situation has changed with revision of the national accounts (1980 to 2008) by the Bureau of Statistics (BOS), Balance of Payments and Government Finance Statistics. The revised data will be published in June and it will also be transmitted to various international data banks such as the IMF, World Bank and Other UN agencies. However there is still need to further enhance the capacity of the BOS to sustain the efforts made and further improve the statistical information systems. The launch of the new Integrated Financial Management Information System (IFMIS) will also provide timely information for generating fiscal statistical reports.

Product and Market Diversification Strategy

Para 348 clearly articulates the policy direction on product and market diversification in Lesotho. However, the report states that '...Product diversification is aimed at moving away from textiles to other products'

Response

The GoL's position is that product diversification is aimed at reducing over-dependency on textiles by increasing the product range for export and domestic consumption. The GoL will also assist investors in exploiting opportunities in SACU and other markets in addition to the US (AGOA).



Mining and Employment Creation

In relation to the factor intensity of the mining industry (Para 354), mining industries are said to be highly labour intensive.

Response

It should be noted that the mining sector is highly capital intensive and not labour intensive as it is stated in the report, hence its low contribution to employment creation.

Assistance to Textiles Industry in Response to the Financial Crisis and Global Economic Depression

Para 357 that covers the response of the GoL in mitigating the impact of the financial crisis and global economic depression, makes reference to one isolated response by the GoL, of providing support to China Garment Manufactures (CGM)

Response

GoL is in the process of developing a comprehensive response for assisting the textile industry, including the establishment of the trade finance facility with the assistance of the Africa EXIM Bank.

National Vision 2020 and the PRS

In Para 363, the report states that Vision 2020 and the PRS contain proposals for long-term development.

Response

It should be noted that the National Vision 2020 is a long term development framework and the PRS is a medium term plan that is operationalized through annual budgets.

Incentives to Support Industrial Development

In Para 366, in the sentence that says: 'subsidies are given to investors wishing to construct their own industrial buildings at LNDC serviced sites',

Response

The word 'subsidies' should be replaced with 'incentives' as the government does not provide direct subsidies to the said investors. LNDC facilitates acquisition of long-term sub-leases of serviced sites for investors that choose to build factory shells. It also makes built factory shells available to investors who choose this option for a rental fee.

Broadening the Domestic Tax Base to Reduce Dependency on SACU Receipts

In Para 370, the report identifies promotion of more efficient tax collection and reduction in tax evasion as some of the important measures that the GoL is pursuing in order to increase the tax base.



Response

It should be noted that the main mechanism for broadening the tax base is through acceleration of high and sustainable growth, especially given that there is limited scope to introduce new taxes. However, since its establishment, the Lesotho Revenue Authority (LRA) has increased revenue from M1140.3million in 2002/3 and M2232.1million in 2007/8.

3.2 Objective II: Implement, transparent, predictable and Credible Government Economic Policies

Policy Formulation and Implementation

In Para 421, it is argued that the GoL does not pay enough attention to policy making and implementation and trusts that South Africa will take care of policy issues. It is not true that the GoL entrusts South Africa with its own policy issues.

Response

The report underscores in other paragraphs that in line with economic integration processes in the region, monetary and exchange rate policy as well as trade policies in Lesotho are influenced by the agreed arrangements under CMA, SACU and SADC. It should be clear that, despite these arrangements, Lesotho is still a sovereign state that has the prerogative to formulate its own policies. Furthermore, Lesotho participates in the formulation of policies and Agreements of the mentioned regional institutions. South Africa has, during the review period, only been given the function of administering the SACU revenue pool, which has now been transferred to SACU Secretariat in Namibia.

It should be reflected in the report that Lesotho formulates her own policies. Lesotho's development policy is articulated in a number of frameworks including the National Vision 2020, Poverty Reduction Strategy, Growth Strategy, Sectoral policy Strategies and Ministerial Strategic frameworks. These policy documents are based on rigorous assessment of national and sectoral problems, constraints, and opportunities. Policy briefs are also prepared from time to time on emerging issues such as the current financial crises and effects of global and regional trade liberalisation. In terms of institutional arrangements, each line Ministry has a Planning Unit that is responsible for planning, policy research and analysis, and ad hoc studies are undertaken with the assistance of various development partners. This process is coordinated by the Ministry of Finance Development Planning, whose capacity, admittedly, does need enhancement to undertake macro-economic policy research and statistical analysis. There is also need to enhance capacity to undertake policy research in Line Ministries, develop robust statistics and information systems and to improve the absorptive capacity of Ministries.

Budget Speech and Resource Mobilisation Strategy

The report states that the budget speeches do not include policy discussions and that there is no clear resource mobilisation strategy.



Response

It should be noted that the budget speech is couched in general on agreed policy framework. Challenges and opportunities are identified and the analysis of the local and international environment is made. The speech then outlines the medium-term macro-economic outlook. A Medium-term Fiscal Framework (MTFF), also known as Annual Budget Annex is produced every year. The MTFF articulates the GoL's fiscal strategy, including resource mobilisation strategy. Furthermore, the main objective for the GoL is to secure concessional funding and limit commercial (domestic and international) debt to the maximum extent to maintain macro-economic stability.

With regard to the private resource mobilisation, there is on-going analysis to explore options for development of resource mobilisation schemes and institutions including a stock exchange and other financial instruments to support small, medium and large enterprises.

It should also be noted that revenue generated from facilitating water transfer to South Africa under LHWP and from diamonds sales goes into the consolidated fund and allocated in line with national priorities. The GoL does not pursue pre-allocation of budget in line with international practice.

Movement of Domestic Oil prices

In Para 422, the report asserts that energy prices are inelastic, such that domestic fuel prices rise with the world oil prices but do not decrease when world prices decline.

Response

It is incorrect to say that domestic oil prices have not come down when international crude oil came down. Domestic oil prices are determined in line with the agreed SACU formula to pass through price increases and decreases to the consumers. Of course, the domestic prices move with a time lag compared with international crude oil prices, which are often affected by speculators.

Fiscal Decentralisation

In Para 429, the report asserts that fiscal decentralisation is retarded as a result of rivalry between Ministries and that political institutions that brought Ministers to power do not appreciate the need for change.

Response

The GoL submits that the statement is incorrect. The Government allocates funds to local authorities in line with their spending capacity. The GoL is engaged in intensive capacity building programmes for local authorities to improve their capacity for planning and financial management.

Recruitment into Key Public Sector Positions

In Para 430, the findings of the CRM indicate that key public sector positions such as those of Principal Secretaries are politicised leading to inefficiencies in the public sector.



Response

The fact is that recruitment of holders of key Government positions is in line with the Lesotho Constitution and international practices. Moreover, such appointments are also based on merit.

3.3 Objective III: Promote Sound Public Finance Management

Minimum Standards for Candidates that Stand for Elections

In Para 452, it is recommended that minimum educational qualifications be set for candidates that stand for elections.

Response

The recommendation is found to be inconsistent with the fundamental principles of political rights. Academic qualification should not be a requirement for citizens to stand for democratic elections in order to allow equal participation in politics.

3.4 Objective IV: Fight Corruption and Money Laundering

Fighting Corruption and Money Laundering

In Paragraph 457 the Report states that Parliament enacted the Prevention of Corruption and Economic Offences Act in 1999, that established the Directorate on Corruption and Economic Offences (DCEO) in 2003. It further states that the functions of the Directorate include investigating suspected practices of corruption in public bodies.

In Paragraph 458 the Report states that the DCEO is seriously understaffed in very critical sectors; it cannot recruit its staff directly and depends on what has been labeled a very inefficient Public Service Commission.

Response

Amended Legislation: The 1999 Prevention of Corruption and Economic Offences Act establishing the DCEO was later amended by Act No.8 of 2006, to conduct investigations of suspected practices of corruption in both public and private bodies. The mandate of the DECO is to educate the public against the evils of corruption, thereby soliciting public support in combating corruption and examining operational systems and procedures of institutions, with a view to reducing opportunities for corrupt practices to occur.

Declaration of Interests and Assets: The amendment further gives power to the Directorate to investigate any suspected conflict of interest undisclosed, involving a member or employee of a public or private body in any decision which such body is to make. Furthermore, the law makes provision for declaration of assets by public officers and private persons, when necessary.



Understaffing of the DCEO: The DCEO is seriously understaffed in very critical areas of its operations, hence an Appointment and Promotion Board has been established specifically to deal with the human resource capacity of the institution.

Independence of the Office of the Auditor General and Ombudsman

Para 459 and 467 indicate that offices of the Auditor General and Ombudsman are not fully independent and are constrained because of being accountable to line ministries.

Response

This is inaccurate. The two offices are independent as the Constitution stipulates. The Ministers do not interfere with the reports or the professional work done by the offices mentioned.

4. Corporate governance

4.1 Overview

Legal Frameworks for Consumer Protection

In paragraph 500 the Country Review Mission “noted the inadequacies of the antiquated Companies Act to provide up-to-date and wide protection of shareholder rights. Competition, consumer protection, intellectual property and creditors’ rights either have weak or antiquated legal frameworks or are not provided for by any statute.

Response

Consumer Protection: Under the on-going Private Sector Competitiveness Project, most of the weaknesses referred to in paragraph 500 are already being addressed. Nevertheless, in Lesotho intellectual property rights are protected by the Copyright Order of 1989 and the Industrial Property Order 1989. It also has to be noted that a Draft Companies Bill will be tabled before Parliament in the very near future.

Discrimination of Textile Workers

Paragraph 570 implies, among other things, the existence of some discrimination by employers over workers who are affected by HIV and Aids in the textile industries.

Response

Workers Protection: In Lesotho, workers are protected against discrimination or any maltreatment by the Labour Code of 1992. In addition Textile Workers and Employers have their organization (Alafa) in the premises and allow workers to go to clinics



4.2 Objective II: Ensure That Corporations Act as Good Corporate Citizens With Regard to Human Rights, Social Responsibility and Environmental Sustainability

Policy Response to National Challenges

In paragraph 573 there is a narrative to the effect that “against the background of high HIV and AIDS prevalence rates, heightened poverty, a declining agricultural sector and unpredictable climatic conditions, this spells catastrophic consequences for the Lesotho labour industry and the realization of sustainable development. Worryingly, the mission did not discern an appropriate policy response to the impending catastrophe.”

Response

Government’s Policy Response: There are several and multi-faceted Government’s policy responses to the HIV pandemic and other challenges in the area of food security and poverty reduction. With regard to the HIV Lesotho has a National Aids Commission that is mandated to take the lead in the government’s effort to combat the HIV pandemic. Through the commission Lesotho has launched and supports several initiatives such as the Know Your Status Campaign (KYS), Prevention of Mother To Child Infection (PMTCI) and several other publicity campaigns. Also, access to the anti-retrovirals in Lesotho is free. In collaboration with development partners, Lesotho is investing heavily in strategies against the scourge of HIV and AIDS. The Government is also investing heavily in poverty eradication strategies as a response to the need to uplift the living standards of people. These include the Growth Strategy (GS), Poverty Reduction Strategy (PRS), Vision 2020, Bloc Farming, Tourism Development and other employment creation strategies including in the rural areas.

5. Socio-economic development

5.1 Standards and Codes

Access to Legal Aid

Paragraph 630 states that “A Legal Aid Department has been established to facilitate easy access to justice by vulnerable or marginalized groups but this is also only located in the capital Maseru and therefore not accessible to all.”

Response

Legal Aid to Districts: It must be noted that currently there are roving Legal Aid Clinics to the districts as part of the government’s effort to enhance access to justice. The decentralization to the mountainous areas of Lesotho is underway and is budgeted in the 2009/10 Financial Year. The long-term plan is to roll-out the legal aid services to all jurisdiction within the country.



Women in Decision-Making Positions

In paragraph 633 it is stated that “the CRM learned that the government has taken actions to repeal obsolete laws that prevented women from accessing land and credit. Women are also increasingly being represented in government at national and local levels, however, women are still underrepresented in Parliament.”

Response

It must be stated that Lesotho is performing very well in the promotion of gender equality. In some respects Lesotho has met or even exceeded recommended quotas by SADC. Indeed Lesotho is among the top four countries of Africa in terms of the number of women in decision-making positions. These countries are Rwanda, South Africa and Namibia. The matrix in this report confirms that Lesotho is indeed performing very well in the area of gender equality.

6. Cross cutting issues

Judiciary

In Paragraph 805 CRM consultations with the Judiciary revealed that although under the Constitution the Judiciary is said to be independent, in reality it is not. The executive is encouraged to cherish and publicly proclaim the importance of judicial independence as a cornerstone of the rule of law, the creation of a just society, in which no one is above the law. The CRM recommends an urgent passage of a bill granting financial autonomy to the judiciary.

Response

It is not true that in practical reality there is no independence of the Judiciary. The Constitution in Section 118 (1) and (2) vests the judiciary with the power and freedom to exercise judicial powers without any interference, subject to the Constitution. The Constitution further vests the Executive with the power to accord the courts the assistance that it requires in order to operate more effectively. Arrangements through the enactment of The Judiciary Administration Bill of 2009 granting the judiciary financial autonomy within the overall national budget are advanced.

Judges, like all other statutory holders of positions, enjoy salary remunerations that are comfortable by local standards.

Economic and Political Vulnerability and Policy Determination

Paragraph 884 states that “It is therefore, misguided to talk of “Lesotho’s development policy” because such does not exist.”



Response

Response to Para 421 (policy formulation and implementation) under Economic Governance and Management applies. Lesotho does have its own development policies.

7. National plan of action

The Grand Total Budget for the National Plan of Action has been erroneously stated as US\$120,045,00, the correct Grand Total is **USD\$194,545,000**.



Attachment I

AFRICAN UNION HUMAN RIGHTS INSTRUMENTS

Status of ratification by Lesotho

1. Constitutive Act of the African Union – ratified on 16/02/2001
2. African Charter on Human and People’s Rights – ratified on 10/02/1992 – Lesotho last reported in 2002, and periodic reports to be made every two years outstanding since 2004
3. African Charter on the Rights and Welfare of the Child – ratified on 27/09/1999 - No reporting ever made so far.
4. Convention for the Elimination of Mercenarism in Africa – ratified on 29/10/1982
5. OAU Convention on the Prevention and Combating of Terrorism – ratified on 06/03/2002
6. OAU Convention Governing the Specific Aspects of Refugee Problems – ratified on 18/11/1988
7. Protocol to the African Charter on Human and People’s Rights on the Establishment of an African Court on Human and People’s Rights – ratified on 28/10/2003
8. Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa – ratified on 26/10/2004
9. African Convention on Preventing and Combating Corruption – ratified on 26/10/2004
10. Protocol of the Court of Justice of the African Union – ratified on 26/10/2004
11. Protocol on the Amendments to the Constitutive Act of the African Union – ratified on 26/10/2004
12. Protocol to the OAU Convention on the Prevention and Combating of Terrorism – ratified on 06/03/2002



UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Ratification and Reporting Status for Lesotho

1. International Covenant on Economic, Social and Cultural Rights
Entry into Force: 9/12/1992
Initial report: Overdue since 1994 (Draft report in place)
2. International Covenant on Civil and Political Rights
Entry into Force – 9/12/1992
Initial report: Examined 1999
Periodic reports: Overdue since 2002 (Draft report in place)
3. Optional Protocol to the International Covenant on Civil and Political Rights
Entry into Force: 6/12/2000
No reports required
4. Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty
Entry into Force: Not a State Party
No reports required
5. International Convention on the Elimination of All Forms of Racial Discrimination
Entry into Force: 4/12/1971
Periodic reports: Overdue since 2000
Initial report – examined in March 2000
6. Convention on the Elimination of All Forms of Discrimination against Women
Entry into Force: 21/09/1995 (Draft report in place)
7. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
Entry into Force: 24/12/2004
8. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Entry into Force: 12/12/2001
Initial report: Overdue since 2002
9. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Entry into Force: Not a State Party
No reports required
10. Convention on the Rights of the Child
Entry into Force: 9/04/1992
Initial report: Examined 2001
Periodic reports: Overdue since 2004



11. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
Entry into Force: 24/10/2003
12. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
Entry into Force: 24/10/2003
13. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Entry into Force: 01/01/2006
Initial report due 01/01/2007
14. International Convention for the Protection of All Persons from Enforced Disappearance
Entry into Force: Not yet a signatory
15. Convention on the Rights of Persons with Disabilities
Entry into Force: ratified December 2008
16. Optional Protocol to the Convention on the Rights of Persons with Disabilities
Entry into Force: Not yet a signatory

ILO INSTRUMENTS

Status of Ratifications

LIST OF CONVENTIONS RATIFIED

Year of Ratification

Weekly Rest (Industry) Convention, 1921	31/10/1966
Forced Labour Convention, 1930	31/10/1966
Labour Inspection Convention, 1947	14/06/2001
Freedom of Association and Protection of the Right to Organize Convention, 1948	31/10/1966
Right to Organize and Collective Bargaining Convention, 1949	31/10/1966
Equal Remuneration Convention, 1951	27/01/1998
Abolition of Forced Labour Convention, 1957	14/06/2001
Discrimination (Employment and Occupation) Convention, 1958	27/01/1998
Workers' Representative Convention, 1971	27/01/1998
Minimum Age Convention, 1973	14/06/2001
Tripartite Consultation (International Labour Standards) Convention, 1976	27/01/1998
Labour Administration Convention, 1978	14/06/2001
Occupational Safety and Health Convention, 1981	01/11/2001
Safety and Health in Construction Convention, 1988	27/01/1998
Worst Forms of Child Labour Convention, 1999	14/06/2001

According to information from the Ministry of Labour and Employment Lesotho is up-to-date in terms of reporting on all ILO human rights instruments.



Attachment 2

PARLIAMENTARY PORTFOLIO COMMITTEES

National Assembly

Parliamentary Portfolio Committees include:

- the Public Accounts Committee which has the function of oversight over the use of public funds;
- the Law and Public Safety Cluster Portfolio Committee that has oversight over Home Affairs, Public Safety, Parliament, Justice, Law and Constitutional matters; the Social Welfare issues, Education and Training, Gender, Youth, Sport and Recreation;
- the Economic and Development Cluster Portfolio Committee which has oversight over financial and development issues. Trade and industry, cooperatives and marketing, labour and employment;
- the natural resources Cluster Portfolio Committee that exercises oversight over natural resources; and
- the Prime Minister's ministries and departments Cluster portfolio Committee that exercises oversight over Local Government, Foreign Affairs, Communications, Information, Broadcasting, Science and Technology, Public Service, Defence and National Security including Parliamentary Affairs.



Attachment 3

COMPOSITION OF THE COUNCIL OF STATE

1. The Right Honourable the Prime Minister;
2. Speaker of Parliament;
3. Two (2) Judges of the High Court;
4. Attorney General;
5. Commander of the Lesotho Defence Force;
6. Commissioner of Police;
7. A Principal Chief;
8. Two (2) members of the National Assembly;
9. A member of the legal profession in private practice;
10. Three (3) other people appointed by virtue of their expertise, skill or experience.



ANNEXURE III

AFRICAN PEER REVIEW MECHANISM



**PROCEEDINGS OF THE PEER REVIEW OF LESOTHO AT THE
ELEVENTH SUMMIT OF THE COMMITTEE OF PARTICIPATING
HEADS OF STATE AND GOVERNMENT [AFRICAN PEER REVIEW
(APR) FORUM] HELD ON 30 JUNE 2009 IN SIRTE, LIBYA**



30 JUNE 2009



1. Introduction

Lesotho was peer reviewed at the Eleventh Summit of the Committee of Participating Heads of State and Government [African Peer Review (APR) Forum] that was held on 30 June 2009 in Sirte, Libya. The summit was chaired by His Excellency Meles Zenawi, prime minister of the Federal Democratic Republic of Ethiopia and chairperson of the APR Forum.

2. Attendance

The following heads of state and government were in attendance:

1. His Excellency Abdelaziz Bouteflika, president of the People's Democratic Republic of Algeria.
2. His Excellency Meles Zenawi, prime minister of the Federal Democratic Republic of Ethiopia and chairperson of the APR Forum.
3. His Excellency John Atta Mills, president of the Republic of Ghana.
4. His Excellency Pakalitha Mosisili, prime minister of the Kingdom of Lesotho.
5. His Excellency Amadou Toumani Touré, president of the Republic of Mali.
6. His Excellency Armando Guebuza, president of the Republic of Mozambique.
7. His Excellency Bernard Makuza, prime minister of the Republic of Rwanda.
8. His Excellency Fradique de Menezes, president of the Democratic Republic of São Tomé and Príncipe.
9. His Excellency Jacob Zuma, president of the Republic of South Africa.

The heads of state and government of Angola, Benin, Cameroon, Cape Verde, Congo, Egypt, Gabon, Kenya, Malawi, Mauritius, Nigeria, Senegal, Sierra Leone, Sudan, Togo, Uganda and Zambia were represented by ministers and senior officials.

His Excellency Jean Ping, chairperson of the Commission of the African Union (AU), was also in attendance.

The members of the APR Panel of Eminent Persons (APR Panel) present were Mrs Graça Machel, Professor Mohammed Seghir Babès, Ambassador Bethuel Kiplagat, Mrs Domitila Mukantagazwa and Professor Dorothy Njeuma.

3. Proceedings of the peer review of Lesotho

Mrs Graça Machel, member of the APR Panel, presented the key findings contained in the Country Review Report on behalf of Professor Adebayo Adedeji, the lead panellist, who unfortunately could not attend.



Mrs Machel indicated that Lesotho is the first constitutional monarchy undergoing a peer review. The Country Review Report of Lesotho elaborates on the findings regarding the state of governance in the four assessment areas of the African Peer Review Mechanism (APRM). In addition, the review identified a number of best practices, notably security sector reforms, constitutional monarchy, electoral system reform and the promotion of women's rights. Lesotho is also said to have the highest adult literacy rate in Africa.

Mrs Machel also spoke about the crosscutting issues contained in the report. These include: implementing codes and standards, the declining population growth, gaps in service delivery and policy implementation, decentralisation, public accountability and corruption, overdependence on aid, unemployment and migrant labour, the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) pandemic, and the challenges confronting Lesotho as an enclave political economy.

4. Response by His Excellency Pakalitha Mosisili, prime minister of Lesotho

Your Excellency Ato Meles Zenawi, Prime Minister of the Federal Democratic Republic of Ethiopia and Chairperson of the Forum of the APR Participating Heads of State and Government,

Your Excellencies Heads of State and Government,

Your Excellency Graça Machel, representing Professor Adebayo Adedeji who is Chairperson of the APR Panel and Lead Panelist for the APR Process in Lesotho,

Honourable Ministers,

Your Excellencies Ambassadors and Permanent Representatives,

Distinguished Ladies and Gentlemen,

It is an honour and privilege for me and my delegation to participate at this 11th Forum Summit of the Peer Review Mechanism. My delegation and I wish to thank the Libyan authorities for the hospitality extended to us and for the excellent facilities that have been put at our disposal.

This day, to me personally, and to the Government and people of Lesotho, is an important milestone in our efforts to demonstrate our commitment to good governance, transparency and to a truly participatory democracy in our Kingdom. To be where we are today, we have had to make bold and difficult choices, but choices which, we are convinced, will salvage us and our future generations from abject poverty and political instability.

We appear before you today because in Lesotho, the seed of hope has been sown. It will soon germinate and bear fruit for the benefit of Basotho, i.e. the people of Lesotho. Today the people of Lesotho know about the African Peer Review Mechanism. They also acknowledge its potential to bring positive changes to their livelihoods.



I am sure that our Malian and Mozambican brothers and sisters, like the people of Lesotho, will ever cherish this moment because, for all of us, it marks a new era and chapter in our history of nationhood.

We congratulate the pioneers in our respective regions, who have joined the APRM before us, and particularly those with whom we are sharing this important platform today.

The Country Review Report

The report before you is a product of a long process of interaction and consultations among the people of Lesotho. We are grateful for the role that was played by the Country Review Team which visited Lesotho to facilitate that process. As government we are satisfied that on the whole, the report is balanced and reflects the views of the people of Lesotho with regard to the four themes on which Lesotho is being reviewed. If there are some inconsistencies and factual errors, we are convinced that this is because of limited understanding of the uniqueness of Lesotho in some aspects. We have, therefore, taken the recommendations that have been made in the report in good faith; and we are committed to implement those that we can implement within the limits of our capabilities.

Democracy and Political Governance

I know that you have read the report and the responses of Lesotho Government which form an annex to that report. I will therefore deal with only a few most pertinent issues.

Allow me to premise my brief observations on the key recommendations of the APRM panel by indicating that, under the theme of Democracy and Good Governance, fortunately, there are already many ongoing government activities in Lesotho that address the substance of most of those recommendations.

For instance, to address the weaknesses that have been highlighted in the judiciary, Lesotho Government has enlisted the assistance of the Commonwealth to start the process of identifying the gaps that must be plugged to strengthen the judiciary with a view to ensuring that the courts of law get rid of the existing backlog of cases and are able to dispense justice expeditiously. The government also continues to jealously protect the independence of the judiciary from any undue influence by any quarter and to ensure that judges enjoy the best affordable employment conditions.

Moreover, whereas for part of the period under review there were only four (4) judges on the bench – all male – the situation has since changed drastically. There are now eleven (11) fulltime justices, five (5) of whom are women. Plus, the Chief Justice is free to recommend to the Judicial Service Commission appointment of part-time judges whenever he deems it necessary. In addition, a new Labour Court, and Labour Appeal Court are now operational, while a new Commercial Court and small Claims Court are in the offing with assistance from the Millennium Challenge Account (MCA) of the USA Government. All these, of course, contradict the views expressed in the report, and attest to our view that Government has, on own volition, been addressing these issues.

We have taken note of the recommendation that because of its apparent propensity to political instability, Lesotho should develop a comprehensive peace architecture, which includes structures for managing national conflicts on a permanent basis at all levels of society.



We concede that it is, indeed, true that since independence in 1966, Lesotho has been dogged by a history of instability that is particularly political in origin. Conflict in Lesotho, like in many of our countries, is mainly a result of competition for scarce economic resources, decades of undemocratic rule, political intolerance, and the culture of political parties that do not accept the verdict of elections, despite their being declared free, fair, transparent and peaceful. Since the return to democracy in 1993, these conflicts have been resolved through domestic mechanisms supported by international and regional intervention. The most significant of these home-grown structures and initiatives are, what we called, the Interim Political Authority (IPA), which was set up in the wake of the conflicts that arose after the 1998 general elections; and the adoption, in 2001 of the unique Mixed Member Proportion (MMP) electoral model. The use of the model has resulted in greater inclusiveness in the political party representation in the National Assembly. As the report notes, the model is working effectively. I am happy to note that the report recognizes this as one of the best practices that Lesotho can offer. Indeed, Churches, Traditional Leaders and other Non-Governmental Organizations have also had a role to play.

I must mention that, further to these successes, the Government of Lesotho is currently collaborating with its international development partners and local stakeholders with a view to strengthening the local institutions that promote peace, reconciliation and tolerance. No doubt the culture of impunity that had developed over the years will take time and much effort to uproot.

Also worthy of note are some recommendations in the report, to the effect that Lesotho should enhance constitutional democracy and the separation of powers by ensuring the operational independence of the various governance institutions. It is further recommended that international Agreements should be subjected to Parliamentary scrutiny before they are signed and ratified. I believe that while these recommendations appear reasonable, unfortunately they omit or fail to take into account the unique character of Lesotho's Constitution in Africa.

Lesotho is a constitutional monarchy along the Westminster model. The King is the Head of State and the executive authority of Lesotho is vested in him. However, the King exercises that authority through the Cabinet which is headed by the Prime Minister as head of Government. The signing and ratification of treaties is an executive act which is a matter for the executive arm of government according to the constitution. The involvement of Parliament comes in when the treaties are translated into local legislation with a view to domesticate them. The roles and functions of each of the three arms of Government are clearly regulated by the constitution. The judiciary remains independent and the legislature is equally independent and separate, comprising two houses of Parliament, the lower house of which is elected, while the Senate consists mainly of hereditary Principal Chiefs. There is also the Council of State composed largely of the three arms of Government to advise the King on some of his functions as Head of State. Examples of the functions His Majesty the King performs on the advice of the Council of State include the appointment of persons to man the Independent Electoral Commission (IEC) following recommendations proffered jointly by political parties; and appointment of eleven (11) Senators to complement the twenty-two (22) hereditary Principal Chiefs who are ex-officio Senators. No overlap of roles therefore exists between the three and they remain separate and independent.

A lot of criticism in the report was leveled at the ongoing process of decentralization in Lesotho. I, however, would like to underscore the fact that decentralization in Lesotho is still in its formative stage as it started only in 2005; and the second Local Government elections are due next year. That notwithstanding, the



Government is already doing everything within its capacity to ensure that the decentralization process functions efficiently, so that the well meant criticisms raised in the report are addressed, and on the basis of experience gained in the first term of these Local Government structures.

In that regard, the government has been incrementally allocating funds to Councils for capital and recurrent expenditure since the Local Government Elections held in 2005. Human resource capacities for Local Councils have been strengthened through staff transfers from the Central Government, the establishment by law of the Local Government Service Commission; and through the appointment and training of new staff. Devolution of decision-making power and resources is being availed to Local Government Structures commensurate to the latter's capabilities to manage them.

Furthermore, Public Finance Laws are being reviewed to ensure fiscal decentralization so as to enable local Councils to efficiently perform their functions. The Government has particularly taken deliberate measures to ensure widespread participation of women in decision-making at the level of Councils. As a result, the Local Government Act 2004 provides for reservation of 30% of seats in Local Councils to women. Thanks to such conscious and conscientious Government initiatives, women Councilors currently exceed that target and stand at 58% of the total number of Councilors.

In my opinion, the report was certainly too harsh in its observations about the so-called endemism of corruption in Lesotho and the lack of efficiency and accountability in the public service.

Indeed, I must hasten to acknowledge that perception of public service inefficiency in Lesotho does exist, and it is grounded in reality. I can only highlight the fact that serious initiatives are already being taken to remedy the lack of good performance on the part of the public service. These initiatives include public service reform programs, introduction of performance appraisal systems, introduction of improved remuneration and pension benefits, the use of computerized financial systems that are designed for the promotion of efficiency in financial management and accountability.

Over and above these, the Government has established the Directorate on Corruption and Economic Offences (DCEO) as part of the national efforts to combat corruption. The DCEO has not only succeeded in prosecuting our own nationals for corruption, but it has successfully prosecuted a number of multinational companies for offering bribes to our nationals. As a result of these successful prosecutions and convictions, a number of these multinational companies from the first world have now been blacklisted by the World Bank. The DCEO is being incrementally strengthened in terms of staff and other resources. Several Parliamentary portfolio committees have also been established to oversee the activities of the public service and to ensure its accountability to the public.

Economic Governance and Management

Under the theme of Economic Governance and Management, I must agree with many of the recommendations of the APR panel, but indicate that in this area also, a number of Government activities are already ongoing to address most of the criticisms that have been raised. The Report does well to recognize that Lesotho is a unique country in that it is completely surrounded by one neighbour, the Republic of South Africa. I must hasten to point out, however, that the two countries have been able to coexist peacefully despite this apparent constraint. They have developed a special relationship and have put in place mechanisms for cooperation that are based on mutual respect and non interference in each others' affairs as required



by international law. This mutual respect and cooperation has been enhanced significantly by the dawn of democracy in the RSA under the African National Congress (ANC).

There is however, a baffling narrative to the effect that “Lesotho does not pay enough attention to policy making and implementation because it trusts that South Africa will take care of policy issues”. Similarly, there is a suggestion that in Lesotho “about 26% of adults are living with HIV and Aids and that the costs of the pandemic are borne privately by households”. It is also alleged that Lesotho Government does not have an appropriate policy response to this and other pressing national challenges.

Nothing could be farther from the truth than these allegations. It is true that in line with the economic integration processes in the region, policies in Lesotho are, to a large extent, influenced by the agreed regional arrangements through regional groupings such as SACU and SADC. But, despite these arrangements, Lesotho is still a sovereign state that has the prerogative to formulate its own policies. Furthermore, Lesotho participates fully in the formulation of the overarching policies of these regional bodies and subscribes to them in terms relevant protocols in tandem with other Member States of the region.

Socio-Economic Development

I must indicate that Lesotho’s development policy is articulated in a number of frameworks including the national vision 2020, the Poverty Reduction Strategy, the Growth Strategy, sectoral policies and strategies as well as ministerial strategic frameworks. These policy documents are based on rigorous assessment of national and sectoral problems, constraints and opportunities.

By the same token, it is true that Lesotho is one of those countries that are hardest hit by the HIV and Aids pandemic. But the government has continued to wage a protracted war against the HIV and Aids pandemic. It is therefore patently false and mischievous to suggest, as the report does, that “the costs of the pandemic are borne privately by households”.

A number of programmes to mitigate the impact of HIV and Aids have been launched countrywide. These cover areas such as the Know Your Status Campaign (KYS), Prevention, Care and Treatment, free access to primary health care and free voluntary counselling and testing. The most important of all, is the provision of Anti-Retroviral drugs free of charge to those in need. In fact, in an effort to lend support and promote the KYS campaigns, His Majesty the King, myself and other top executives of government have been in the forefront of the fight. Some of us have even undergone public testing for HIV to encourage the public to follow suit! How many of those colleagues who berate us have been or would be willing to brave the storm and do likewise?

Let me point out that in Lesotho there are also networks of Pediatric HIV and AIDS Clinics. These are intended to help mainly in the prevention of mother to child transmission (PMTCT) and in the treatment of expectant mothers. Moreover, we have established by law an autonomous but accountable National Aids Commission (NAC), funded by Government, to champion and coordinate measures and national programmes to combat the pandemic and lend support and treatment to the infected and affected. The aggregation of these measures has seen a marked turn around and decrease in the prevalence and general impact of the pandemic.



It is in this context that we feel that, under this subject, Lesotho has not been fairly treated, and that credit has not been given where it is due. We are willing to learn from the experiences of others and we do acknowledge that we are constrained by both human and financial resources in the fight against the pandemic. But it is a situation that is shared by many of us and there is a need for us to take the fight to a higher level.

The National Programme of Action

We are aware that the peer review of Lesotho takes place at the difficult time economically due to the current economic meltdown and financial crisis. There is no doubt, therefore, that the current scenario will have a bearing on our ability to implement our National Plans of Action that come with the peer review process.

In the annex to the report before Your Excellencies, Lesotho presents her own National Plan of Action (NPOA) that carries a very ambitious budget, by our standards. This NPOA and its budget is an expression of our intention to address the gaps that have been identified by our people, by the researchers and by the Country Review Team that visited the Mountain Kingdom. In this context, I cannot overemphasize the urgent need for the APRM not to be a roadside or armchair critic but to stand up and fight along with us by supporting our national efforts with additional resources.

Conclusion

In conclusion, let me once again, on behalf of the Government and People of Lesotho and on my own behalf, thank those men and women who were involved in the peer review process of Lesotho. We take note of the recommendations that have been made in the critical areas of the political and socio-economic needs of Lesotho and her people; and as government, we shall endeavour to address the identified gaps through our National Plan of Action. Our understanding is that the NPOA serves to complement our national budgetary allocations. We are aware that this exercise will require a solid political will from Government; - and that I can guarantee; we are equally aware that the NPOA calls for additional financial resources which so far have eluded us.

We hope and expect that the APRM framework will meet us halfway by providing a channel through which we can mutually support one another in implementing the National Plan of Action. There is no doubt whatsoever that the APRM exercise has sharpened our perceptions and understanding of our development and challenges, shortcomings, and opportunities, and for that we are immensely grateful. We are now, more than ever before, convinced that our decision to accede to the APRM process was a good decision.

I thank you.



5. Summary of APR Forum deliberations

The APR Forum commended His Excellency Pakalitha Mosisili for his candid response. It laid emphasis on the progress made by Lesotho in various sectors of governance, including the electoral reforms initiated to deepen democracy, as well as the various measures taken to promote the rights of women. The APR Forum also noted the challenges facing Lesotho given its context as a political enclave economy, and underscored the importance of regional integration in this regard. Lesotho was furthermore encouraged to pursue economic strategies to increase its competitiveness and to take measures to address its socioeconomic challenges. Tourism and water resources were cited as assets that Lesotho could develop for economic gain. The APR Forum noted the need for mobilisation of resources for the implementation of the country's National Programme of Action (NPoA).



