

National Investment Policy of Lesotho

This is an official statement of the National Investment Policy of Lesotho. It reflects existing policies and current practices of the Government of Lesotho affecting domestic and foreign investors.

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1. Preface

The Government of Lesotho recognises that the mobilisation of domestic and foreign investment and the development of the private sector are key requirements to create high and shared growth. The National Strategic Development Plan, adopted by the Government in 2012, acknowledges that the current investment environment lacks clarity and calls for the creation of a single overarching investment policy.

In pursuit of the above, this National Investment Policy of Lesotho is addressed to national and foreign investors to inform them of the Government's goals and policies in promoting and regulating investment, and to provide clarity about the obligations and opportunities.

2. Objectives

The Government of Lesotho promotes and regulates private investment within the fundamental national objective of sustainable and inclusive development for its citizens. The National Strategic Development Plan sees private investment as the engine of growth and the most effective way to raise living standards by creating sustainable jobs.

Encouragement of investment by Lesotho's citizens in rewarding businesses is a primary goal of National Investment Policy. The Government encourages the development of an entrepreneurial culture, where hard work and risk taking is rewarded and success is valued in the community. Government policy is to support Basotho-business in improving know-how and access to facilities and finance.

Lesotho's current success in manufacturing is narrowly based on textiles, garments and footwear exports. It is helped by preferential market access and is not deeply rooted in a domestic supply chain. It is a Government objective to diversify and deepen manufacturing for regional and international markets so as to promote sustainable job creation. Investment in agriculture, mining and tourism, along with supplier industries and services is encouraged as an integral part of the goal of broadening the economic base and widening job opportunities.

Foreign investment is actively encouraged in all areas of the economy, apart from certain small-scale business which are reserved for Lesotho's citizens. It is Government policy that, once established, foreign investors should enjoy the same rights and protections as national investors. They should abide by the law. The Government particularly welcomes foreign investments which:

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

Lesotho takes a measured and selective approach to immigration. The Government exercises controls to prevent immigration from foreign investors seeking to trade in businesses reserved for Lesotho's citizens.

The Government is aware of the challenges it faces as a small and least developed country in facilitating investment and is committed to improving the climate for investment.

3. Lesotho advantage

Trade preferences: As a least developed country, Lesotho enjoys duty-free access for its goods to major world markets. Duty-free preferences under the United States' African Growth and Opportunity Act (AGOA) have been a catalyst for investment in textiles and garments. Lesotho enjoys the European Union's Everything but Arms duty-free preferences for least developed countries and has signed an Economic Partnership Agreement (EPA) with the EU. In 2008, Lesotho also became the first least developed country to become a free trade partner of the European Free Trade Association (EFTA), which includes Iceland, Liechtenstein, Norway and Switzerland. In the region, Lesotho has reciprocal free trade with members of the Southern African Development Community (SADC) and is a member of the Southern African Customs Union (SACU), the world's oldest customs union. Finally, a Preferential Trade Agreement is in place between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU).

Large regional market: SACU is an opportunity for Lesotho to effectively expand the small size of its domestic market. SACU includes Botswana, Namibia, South Africa and Swaziland, giving access to a combined GDP of over \$400 billion – nearly 200 times the size of Lesotho's economy. SACU, especially South Africa, presents substantial market opportunities for investors based in Lesotho. The common monetary area arrangements (refer Section 6), which hold the Lesotho loti (LSL) and the South African rand at parity, enhances the opportunity for trade and the attraction of investment.

Ability to utilise trade preferences: Many least developed countries have privileged access to world markets. Lesotho has demonstrated an ability, unmatched in Africa, to take advantage on them. It is the second largest exporter of garments to the United States under AGOA. The Government's policy is to build on the AGOA success by fostering a domestic business environment among the most favourable in the region to fully realise the potential of its trade privileges. The AGOA Response Strategy has been developed to take full advantage of the preference with an aim to expand product lines and benefit MSMEs.

Favourable operating environment: Among the domestic conditions favourable to investment are:

- a literate and willing work force at competitive wage cost and growing productivity, with a high degree of industrial harmony. Lesotho has free and compulsory primary education and one of the highest rates of literacy in Africa;
- supportive business facilities and services (refer below);
- macroeconomic stability and currency convertibility;
- a safe and low-crime working and personal environment;
- respect for private property and a fair and competent judicial system;
- low levels of corruption;
- easy access by road and rail to the deep water ports of South Africa;
- reliable electricity generation covering 70 per cent of domestic demand, with the ability to import electricity from the most competitive regional suppliers through the regional grid; and

- a reasonable road network which is expanding as infrastructure is developed to harness Lesotho's abundant water resources.

Abundant water resources and related potential: The Lesotho highlands are an important water catchment. The Lesotho Highlands Water Project (LHWP) supplies water to South Africa through a major system of dams and tunnels. This project, which is executed by the Lesotho Highlands Development Authority (LHDA), has greatly expanded the highway network and feeder roads. Government policy is to undertake a second-phase expansion of the LHWP. In addition to contributing to Government revenue, Phase 2 will dramatically raise hydro-electricity generation potential. It will also be the catalyst for road network expansion and other communications' improvements. In turn, this opens up largely untapped potential for tourism in Lesotho's scenic mountains and dams.

Increasing diamond mines and production: Lesotho produces some of best gem quality diamonds in the world. Diamond production is expected to increase from 2016 due to up scaling of production at Kao Diamond Mine and commencement of commercial production from four other diamond mines that are currently under development. Significant potential for investment in mine-supply industries and services exist, boosted by the current pace of exploration and mine development.

Mineral Prospectively: Lesotho has mineral resources that are largely unexplored and unexploited:

- There are massive sandstone (dimension stone) deposits, abundant dolerite (aggregate material) intrusions and other industrial minerals.
- Some prospects for base metals (nickel, copper, cobalt, lead, zinc, iron, etc.), rare earth minerals and hydrocarbons resources also exist, but there is need for detailed exploration to confirm the viability of their commercial exploitation.
- A total of 405 kimberlite bodies have been identified, of which 39 are pipes, 23 blows and 343 dykes. Prospecting licences are being granted to various companies and applications are still open to interested investors.

Supportive business facilities and services: Key business services in Lesotho are available to both domestic and foreign investors. They compare well with those of other developing exporting countries.

Lesotho has a long-standing policy of providing low-cost *business facilities* in the form of factory shells, serviced industrial land, and office and small-scale business incubation premises (refer section 4).

Government policy is to provide a reliable *electricity* supply at reasonable cost to business. Electricity is supplied by the Lesotho Electricity Company (LEC) which is government-owned but was incorporated as a company in 2006 so as to operate under commercial principles. New connections and erection of low voltage lines is now undertaken by private contractors and this has speeded up connections to new premises. The transmission grid is owned by Government of Lesotho and the 72MW `Muela hydro plant LHDA. The `Muela plant generates about 70 per cent of Lesotho's needs. The remainder is imported from lowest cost regional suppliers via the southern African grid.

Urban *water and sewerage* services are supplied by WASCO, a government-owned incorporated company. Bulk supply is from lowland sources which are being augmented by construction of the Metolong Dam.

Both LEC and WASCO (from April 2013) are overseen by LEWA on behalf of the Government. LEWA's mandate is to regulate tariffs and service quality so that Government policy of timely, efficient and affordable services is implemented.

The *telecommunications* market is liberalised and under the regulation of the Lesotho Communications Authority (LCA). Fixed line, mobile and internet services are privately owned, and operators have full domestic and international gateway licences.

4. Support for investors

Government policy is to create supportive operating conditions for business. It promotes private investment, facilitates investors in complying with regulations, and directly extends services and facilities where these are not adequately provided by the market.

Business facilitation: The Government's One-stop Business Facilitation Centre (OBFC), based in Maseru and Maputsoe, is the front line in assisting business to access necessary operating permits. At the OBFC, businesses can obtain company incorporation (also online), tax registration, industrial and trading licences, work and residence permits for non-citizens in manufacturing, and export and import permits and rebates. Several of these permits are provided on-the-spot by OBFC officers and officials with delegated powers from their ministries. The Government policy is to provide informed and speedy access to permits at the OBFC. For example, company incorporation and tax registration should together take no more than three days. An International Trade Administration division was also established within the OBFC to work on trade remedies and tariff investigations.

Investment promotion: Three Government organizations work to promote investment. The Lesotho National Development Corporation (LNDC) promotes foreign investment and larger scale national investment. It is the principal point of contact for prospective foreign investors and can provide serviced land and low-cost factory shells. The Basotho Enterprises Development Corporation (BEDCO) promotes investment by smaller nationally-owned businesses. The Lesotho Tourism Development Corporation (LTDC) promotes tourism investment by foreign and national investors.

Public-private dialogue: The Government is committed to creating an enabling regulatory and administrative environment for investors. It welcomes dialogue with national and foreign investors on matters relating to the investment climate. Private sector organizations are frequently involved in government policy deliberations. Formal arrangements include the Business Council, the Private Sector Foundation of Lesotho and the LRA Private Sector Forum. Umbrella business bodies such as the Lesotho Chamber of Commerce and Industry are represented on a number of statutory boards.

The Ministry of Trade, Industry (MTI) is the focal point in Government for *advocacy* to improve the investment climate as well as overseeing LNDC, BEDCO and the OBFC.

Support to national investors: The Government's policy is to give special support to foster the uptake of business opportunities by national investors and to encourage entrepreneurship. Historically Lesotho has been a subsistence pastoral society lacking large-scale commercial farming or industry to generate indigenous business experience and wealth. As a result, national entrepreneurs are hampered by a lack of technical and management skills and poor access to finance. Accordingly, the Government sponsors many programmes to help national investors to overcome these drawbacks and welcomes international donor support for them:

- Access to premises: LNDC and BEDCO lease serviced land and factory shells and other premises at discounted rates to their respective clientele. They are a major source of such facilities.
- Access to finance: Schemes include:
 - The Government's Partial Credit Guarantee Fund (PCGF) is a facility to support commercial bank lending to wholly Basotho-owned projects which are viable but lack sufficient collateral. The PCGF guarantees 50 per cent of the loss from a defaulted loan. LNDC has a similar scheme in which it has set aside a fund whereby 50 per cent loan guarantees available to enterprises with at least 51 per cent national ownership.
 - The Financial Institutions Act of 2010 paves the way for the development of leasing. Whilst lease finance will improve financing sources for all investors, the Government expects it to be especially useful in improving access to finance for national enterprises.
 - The National Inclusive Finance Strategy of 2012 supports access to credit for micro, small and medium enterprises, as well as the unbanked and underserved population.
- Training: Many Government agencies offer business skills' training as part of enterprise development schemes. These include both entrepreneurship and workforce skills' development centres (e.g. from BEDCO, MTI, the Lesotho Revenue Authority and the Ministry of Finance). These are often supported by international donors, such as the two skills training centres for textile and garment workers which were established with the assistance of the World Bank.
- Market support: The Government has available several schemes to promote the supply of Lesotho goods and services:
 - Government procurement: Guidelines allow a 10 per cent price preference on Lesotho goods and a further 7.5 per cent preference for contracts performed at least 50 per cent in Lesotho or sub-contracted at least 50 per cent to Basotho business. Further, all contracts over LSL500, 000 which entail sub-contracting must sub-contract at least 25 per cent of the work to Basotho businesses. A Basotho business may also have a second chance to match the price of a winning tender. For the purposes of Government procurement, a Basotho business is one in which Lesotho residents are majority owners and the majority of directors are Lesotho citizens.
 - Import restriction: Under the Import Restrictions (Amendment) Regulations, the Government may restrict imports of selected agricultural and bakery products to improve the market prospects for Lesotho products.
 - Exclusivity: Under the Industrial Licensing Act, a manufacturer may be granted an exclusive industrial licence if the Minister responsible for Industry

is satisfied that it is in the public interest and in the interest of the efficient development of the industry.

5. Foreign direct investment policy

Lesotho welcomes foreign investment in almost all areas, business, and practices. It grants a high standard of treatment and protection to foreign investors. There is no Investment Law. Instead, a licensing regime and established practice, supplemented by investment treaties, governs conduct towards the entry of foreign investors.

With few exceptions, Lesotho is open to foreign investment without case-by-case approval or requirement for partial national ownership. The exceptions are a defined number of small-scale businesses in certain activities which are reserved exclusively for Lesotho citizens in order to encourage the spread of local entrepreneurship. The reserved activities are listed below.

Activities reserved for Lesotho citizen ownership

Reserved under the Trading Enterprises Regulations 1999 (as amended in 2011 and 2012)

- Agent of a foreign firm
- Barber
- Basotho beer shop
- Butcher
- Snack-bar
- Domestic fuel dealer
- Dairy shop
- General Café
- General dealer
- Greengrocer
- Hawker
- Street photographer
- Broker
- Mini supermarket (floor area < 250m²)
- Hair and beauty salon
- Petrol dealer
- Tentage dealer

Under these regulations, all trading enterprises must be licensed. A licence to trade in reserved activities will only be granted to enterprises wholly owned by Lesotho citizens. An enterprise is considered foreign if:

- its sole proprietor is a non-citizen;
- it is a partnership in which any partner is a non-citizen; or
- a body corporate in which any of the directors or shareholders is a non-citizen.

There is a penalty for trading without a licence.

Reserved under the Mines and Minerals Act No.4 2005

Mineral permits for small-scale mining operations on less than 100m² will only be granted to individuals who are Lesotho citizens. Diamond mining is subject to the licensing regime for large-scale mines and no foreign ownership restrictions apply in this case. However, the

Government reserves the right to acquire at least 20 per cent ownership in any large-scale mine.

Access to land: All land ownership is vested in the King on behalf of the State and titles are granted in the form of leases under the Land Act 2010. Lesotho attaches great importance to preserving citizen's access to land. Accordingly, a foreign enterprise will not be granted a leasehold title unless it contains at least 20 per cent local ownership. The Minister responsible for lands, in consultation with the Minister responsible for the industry concerned, must be satisfied that the land is required for the proposed venture. A foreign enterprise under the Land Act is a partnership in which any partner is a non-citizen or a body corporate in which any shareholder or director is a non-citizen.

Foreign investors may sub-lease land and in practice all foreign interests in land titles take this form. LNDC has been active in facilitating such sub-leases (refer section 6 on land).

Type of business entities: Foreign investors may establish operations in unincorporated form, including as sole traders or branches, or incorporate as a Lesotho company under the recently modernised Companies Act 2011. Branch operations must be registered under the Act as "external companies". Licences are required – whatever the nationality of ownership – in order to start business in a wide range of industries and services (section 6).

Treatment and protection: There are no formal performance obligations as a condition of foreign entry, but Lesotho especially welcomes foreign investors who contribute to job creation, workforce skills development and business advancement of national suppliers and partners.

Lesotho's post-establishment standards of treatment and protection of investors are based on established practice and several international treaties. Lesotho has ratified the SADC Protocol on Finance and Investment and entered into bilateral investment treaties with Germany, Switzerland and the United Kingdom. The investment so-covered generally includes real and financial assets as well as intellectual property, contracts and licences.

Lesotho is committed to non-discriminatory treatment of foreign investors who are legally established in the country. There is no discrimination between foreign investors based on their country of origin and, with a few exceptions as listed in the next paragraph; there is equal treatment with national investors. The SADC Protocol affords fair and equitable treatment to foreign investors from all countries including non-members of SADC.

Government agencies run many programmes to help national investors, usually small investors, in areas such as entrepreneurship training, market awareness, business incubation and access to credit (section 5). These are not generally available to foreign investors who are expected to have business-ready skills and finance. Under the Minimum Wage Order of 2011, a lower minimum wage applies to certain small retail service establishments employing less than 10 staff; this concession applies only to establishments that are majority owned by Basotho natural citizens.

Apart from these exceptions there is national treatment of foreign investors, including in taxation and in the access to low-cost premises (section 4).

Subject to foreign exchange control rules, Lesotho's policy is that foreign investors may access foreign exchange for day-to-day business purposes and can remit capital and profits overseas. Investors may hold foreign currency accounts in local banks. Lesotho has acceded to Article VIII of the IMF charter which provides for foreign exchange convertibility of current account transactions.

Lesotho is committed to international standards of protection of foreign investment. A clear statement is provided in the SADC Protocol: "Investments shall not be nationalised or expropriated in the territory of a State party, except for a public purpose, under due process of law, on a non-discriminatory basis, and subject to the payment of prompt, adequate and effective compensation" (annex 1, article 5).

Lesotho has an independent and effective judicial system and it is Lesotho's policy that foreign investors should have equal treatment before the courts in disputes with national parties or the Government. The SADC Protocol enables investors to refer to international arbitration a dispute with the State if domestic remedies have been exhausted. Lesotho is a signatory of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) and of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). It is also a member of the Multilateral Investment Guarantee Agency (MIGA)

No foreign investment in Lesotho has ever been nationalized.

6. Business regulation and taxation

Lesotho's policy is to offer investors a business-friendly environment with well-designed regulation to safeguard the public interest and adequate taxation to fund public services and infrastructure.¹ The Government respects private property and does not interfere in private business affairs. The Constitution protects private property from arbitrary seizure. The judicial system is fair and competent and a Commercial Court is established to expedite the hearing of commercial cases.

Business establishment and licensing: Businesses may operate as sole traders, partnerships, incorporated entities or as branches of foreign companies. Companies are incorporated (and branches of foreign companies registered) under the Companies Act 2011, by application to the OBFC. This Act modernises important facets of corporate conduct including the powers of shareholders and directors, audit, new share issues and liquidation. Tax registration is done simultaneously with company incorporation and branch registration.

Lesotho operates a comprehensive system of industrial and trading licences, which are required before commencing business.

Most types of retail and other service business must obtain annually renewable trading licences under the Trading Enterprises Act 1993 and associated regulations. Licences are used to check the suitability of premises and facilities for the intended purpose, health and safety, trading standards and, upon renewal, tax compliance. Licences also implement foreign ownership restrictions on activities reserved for national ownership (refer section 5).

¹Refer to annex II for a compendium of investment-related laws and treaties.

All manufacturers require an industrial licence under Industrial Licensing Act 2014, although the responsible Minister may alter these requirements for any specified enterprise. Application for industrial licence is made at the OBFC and granted by the Director of Industry.

Land: Ownership of land is vested in the State and title is made available in the form of renewable State leases, for periods which depend on the use to which the land is put. Maximum lease durations are 90 years (agricultural and residential purposes), 60 years (hotel, industry and commerce) and 30 years (sale or storage of petroleum products). The minimum lease period is 10 years (section 4, above describes FDI-specific land issues).

Formally, all lease transfers, encumbrances and sub-leases require government consent. Application is made to the Land Administration Authority (LAA) which aims to grant a typical consent within five days.

Labour: The Government believes that its workforce is a key asset and job creation is a national imperative. The Government expects the private sector to add 50,000 sustainable jobs to the economy by 2017. It is aware that Lesotho needs to preserve its competitive labour costs whilst affording workers fair wages and conditions. Accordingly, it provides mechanisms for appropriate wage setting and maintenance of good industrial relations and promotes measures to boost labour skills and productivity.

Employment terms and conditions are regulated flexibly. Employers have explicit legal duties in relation to the health, safety and welfare of their employees. These are backed up by statutory workplace monitoring procedures to be established with employees and by the requirement to register factories over a minimum size. Unionisation is permitted. A tripartite Industrial Relations Council handles industrial disputes and advises Government on good practice in industrial relations. A full-time independent Directorate of Industrial Disputes Prevention and Regulation allows the Government to play a neutral but pro-active role in maintaining a record of good industrial relations.

Minimum wages are set on the advice of a tripartite council representing the Government, employers and employees. Levels are set for a variety of occupations, skill levels and industries. Employers in the textiles, garments and leather (including footwear) industries and those operating small businesses (less than 10 staff) have significantly lower minimum wages. Piece rates are permitted but the minimum wage must still be paid and, in practice, they have a negligible influence on overall pay in manufacturing.

The Government believes that enhancing workforce skills is a pathway to more competitive conditions for investors concurrent with improving living standards of workers. It encourages firms to undertake training (see taxation below) and also offers training programmes. For example, it has partnered with the World Bank to set up two skills centres to train workers in the textiles and garment industry.

Foreign work and residence permitting: Government policy is to permit foreign workers when there is a gap in the availability of suitably qualified and experienced citizens. Apart from safeguarding employment opportunities for its citizens, the system also aims to promote the training of Lesotho citizens and to discourage excessive immigration. Every non-citizen employee (including a self-employed person) must obtain a *work permit* from the Labour

Commissioner under the Labour Code Order of 1992. The Director of National Employment Services must be satisfied that there is no suitable Lesotho citizen for the position and may require the appointment of a citizen understudy.

A *residence permit*, which is issued under the Alien Control Act, is granted by the Ministry of Home Affairs once a work permit has been approved.

The maximum term of a work permit is two years whilst a residence permit can be for an indefinite term. In some cases these permits are issued for the duration of the relevant industrial or trade licence which is one year renewable, but discretion may be used to grant two-year terms.

Work and residence permitting in manufacturing is streamlined. Applications are made to officers with delegated powers at the OBFC and are dealt with speedily. Manufacturing companies employing more than 350 employees can employ five expatriates to one hundred local employees (5 per cent quota). In small and medium manufacturing (employing between 50 and 350 people), the number of expatriates must not exceed 10 people.

Foreign exchange: Lesotho's prudent macroeconomic management enables it to offer free foreign exchange convertibility for all current account transactions. Within its system of conventional foreign exchange control, offshore debt and capital transactions require prior approval of the Central Bank of Lesotho (CBL). As member of the Common Monetary Area in southern Africa (CMA), Lesotho has free convertibility of transactions with Namibia, South Africa and Swaziland. Under an ancillary agreement in 1986 with South Africa, the loti is exchangeable at par with the South African rand and the rand is legal tender in Lesotho.

Lesotho residents may hold foreign currency accounts with locally based banks. This reduces transaction costs and exchange rate risks for exporters.

Environment: Protection of the environment is of great importance in Lesotho and investors are expected to work responsibly with the Government to preserve it. In the Environment Act 2008, Lesotho has an up-to-date legal framework for protecting the environment. Investors proposing any type of project listed in the First Schedule of the Act must submit a pre-ception project brief to the Director of Environment. The Director may grant approval forthwith. Or, if there is a significant environmental impact, the Director will require a study and environment impact assessment to be carried out which may involve public consultations. Once the assessment, including mitigation measures, are approved, a licence is issued

Intellectual property: The Industrial Property Order and the Copyright Act, both of 1989, offer protection of trademarks, patents and copyright. Lesotho is a member of the World Intellectual Property Organisation. As a least developed country, Lesotho is not obliged to offer patent protection on pharmaceuticals under the TRIPS Agreement of the World Trade Organisation, to which Lesotho has been a member since 1995.

Taxation: The Government's objective is to raise sustainable revenue for public purposes in an efficient and equitable manner so as to promote Lesotho's development. It is the Government's policy that tax should not undermine incentives to work, save and invest. As part of raising Lesotho's overall business competitiveness, tax incentives may be offered to industries that are key or strategic.

Profits arising from income and capital gains are taxed at a general rate of 25 per cent. Losses can be carried forward indefinitely. A usual range of expenses is allowed in deriving chargeable income although a thin capitalisation rule applies to interest expense deemed to be excessive. Depreciation allowances range from 5 per cent p.a. on buildings, to 20 per cent on furniture and equipment and heavy vehicles to 25 per cent on light vehicles. Miners are allowed immediate expensing of capital expenditure.

Dividends are not further taxed when paid to Lesotho residents. Dividends paid to non-residents are taxed at 25 per cent. Lesotho has three double taxation treaties which reduce the rates of dividend withholding tax to 15 per cent (South Africa) and 10 per cent (Mauritius and the United Kingdom) for residents of treaty partners.

Interest and royalty payments to non-residents are subject to a standard withholding tax of 25 per cent, reduced to 10 per cent in all three double taxation treaties. Services' fees paid to non-residents are taxed at 10 per cent.

Manufacturing has tax incentives in recognition of its crucial role in job creation. Manufacturing profits earned are taxed at 10 per cent. Dividends paid to non-residents from these profits are tax exempt. Interest and royalties payments to non-residents have a concessional rate of 15 per cent. Export manufacturers also obtain a full rebate of customs duty paid on their inputs imported to produce for markets outside SACU.

To encourage investment the rate of corporate tax in commercial agriculture is 10 per cent. The general tax regime applies to dividends, royalties and services' fees paid to residents and non-residents from agricultural business except where double tax treaties apply.

In order to foster skills development, expenses incurred by an employer for the training or tertiary education of a Basotho employee are tax deductible at 125 per cent.

The general tax regime applies to investment in all other sectors, apart from special arrangements in an intergovernmental protocol applying to the Lesotho Highlands water scheme.

A taxpayer has a right of appeal to an independent Revenue Appeals Tribunal, which is chaired by a High Court judge, and has rights of further appeal to the Courts.

7. Opportunities, priorities and incentives

The Government projects that economic growth will continue to surge in the next few years led by new investment in *diamond mining* and phase II of the *Lesotho Highlands Water Project* (LHWP). Phase II of the LHWP will comprise a new water storage dam and an associated 1000MW hydroelectric generation project.

These major projects will give rise to investment opportunities in the supply of construction services, building materials, accommodation and catering, security, transport and logistics, equipment supply and a range of repair and maintenance services.

However there are other opportunities in the mining sector which include:

- Unexplored kimberlite pipes, dykes and blows
- Massive sandstone (dimension stone) deposits
- Untapped industrial minerals, in particular clay
- Abundant dolerite (aggregate material) deposits
- Increasing number of diamond mines and production
- Unexplored hydrocarbons resources

Manufacturing has been a major growth story over the last decade. Lesotho hosts many Asian investors in the textiles and garment industry. Brands which have been manufactured in Lesotho include Calvin Klein, Gap, Levis, Ralph Lauren, and The Children's Place. It is also an emerging footwear exporter including brands such as Reebok. The Government wants to sustain and grow light manufacturing exports to create jobs. On the international front, it is working to sustain Lesotho's trade preferences. At home, investors benefit from tax incentives and the provision of factory shells and serviced land at discounted rates (refer sections 3 and 6).

The Government welcomes investment which deepens the domestic supply chain in textiles and footwear, and extends Lesotho's success in these industries into other areas of light manufacturing. Investment in the export of light manufactures to the SACU and wider SADC free trade areas is another opportunity supported by tax incentives and low-cost land and facilities.

Foreign investment will be essential in bringing capital, technology and management to deepen and diversify manufacturing opportunities for Lesotho. The Government particularly welcomes foreign investment that can improve the skills of the domestic workforce and provide opportunities for domestic businesses as suppliers and partners. The Government is investing heavily in education to provide a base of trainable workers. It runs numerous programmes to encourage Basotho business (refer section 4).

Tourism represents only 2 per cent of GDP. Government policy is to expand visitor numbers by 50 per cent by 2017. Lesotho has much unexploited potential for mountain scenery and pursuit tourism. For instance, in 2013, Lesotho's Sehlabathebe National Park joined its neighbour in South Africa as the Maloti Drakensberg Transboundary World Heritage Site. The LTDC has been formed to promote Lesotho's tourism potential more actively. Continuing development of Lesotho's water and hydroelectric potential will improve infrastructure in the highlands and thus access to tourism development sites. There are immediate opportunities for small to medium scale investment in tourist facilities at parks and lakes. The Ministry of Tourism has begun dispensing government-owned lodges to private investors and will consider proposals from local and foreign private investors for concessions to manage parks whilst generating income from associated tourist facilities.

Agriculture, horticulture and forestry afford small-scale opportunities for national and regional investors. Due to the mountainous terrain and the practice of communal grazing of cattle, there is limited scope for large-scale commercial agriculture. A pilot-stage project with World Bank support has identified early supply of seasonal fruits to the South African market as a possible opportunity. Other small- to medium-scale opportunities are available for agri-business in processing of fruits and vegetables, meat, animal fibre, hides and fish farming in

the lakes created by the LHWP. Agricultural investment is incentivised with a 10 per cent corporate tax rate.

Forestry is being commercialised to provide opportunities for small-scale investment. Government woodlots will be yielded to portable saw-mill operators with prospects to supply treated timber for traditional roofing, fence posts and pallets in place of imports.

In relation to *infrastructure* there is opportunity to develop serviced industrial estates and factory shells to cater for a pipeline of demand to supplement, or partner the LNDC. Opportunities in the dispensing of *public infrastructure, water, electricity and other services* await the development of a public-private partnership (PPP) policy; private investment is currently not being actively solicited. However, consideration is being given to permitting private investment in postal services.

In *telecommunications*, teledensity has grown rapidly and now stands at 72 per cent, aided by universal service funding. LCA promotes the competitive provision of services and, in that regard, is seeking to attract a third operator to continue this growth and to increase competition.

Financial institutions law has recently been overhauled to provide a modern regulatory regime for *financial services*. The Government encourages investment by reputable operators in lease finance for business and expects consumer finance to grow strongly as living standards rise.

Annex I: List of Acronyms

AGOA	Africa Growth and Opportunity Act
BEDCO	Basotho Enterprises Development Corporation
CBL	Central Bank of Lesotho
DDPR	Directorate of Dispute Prevention and Resolution
EPA	Economic Partnership Agreement
LAA	Land Administration Authority
LCA	Lesotho Communications Authority
LEC	Lesotho Electricity Company
LEWA	Lesotho Electricity and Water Authority
LHDA	Lesotho Highland Development Authority
LHWP	Lesotho Highlands Water Project
LNDC	Lesotho National Development Corporation
LRA	Lesotho Revenue Authority
LTDC	Lesotho Tourism Development Corporation
LTEA	Lesotho Textile Exporters Association
MAFS	Ministry of Agriculture and Food Security
MDP	Ministry of Development Planning
MF	Ministry of Finance
MFAIR	Ministry of Foreign Affairs and International Relations
MM	Ministry of Mining
MOLE	Ministry of Labour and Employment
MPWT	Ministry of Public Works and Transport
MTI	Ministry of Trade and Industry
MTEC	Ministry of Tourism, Environment and Culture
OBFC	One-Stop Business Facilitation Centre
PCGF	Partial Credit Guarantee Fund
SACU	Southern African Customs Union
SADC	Southern African Development Community
WASCO	Water and Sewerage Corporation

Annex II: Compendium of investment-related laws and treaties

Alien Control Act
Bilateral investment treaty Lesotho - Germany 1982
Bilateral investment treaty Lesotho - Switzerland 2010
Bilateral investment treaty Lesotho - United-Kingdom 1983
Central Bank of Lesotho Act 2000
Common Monetary Area
Communications Act 2012
Companies Act 2011
Constitution of Lesotho 1993
Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID)
Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)
Copyright Act 1989
Double taxation treaty Lesotho-Mauritius
Double taxation treaty Lesotho-South Africa
Double taxation treaty Lesotho-United-Kingdom
Economic Partnership Agreement
Environment Act 2008
Financial Institutions Act 2010
Import Restrictions (Amendment) Regulations 2009
Hotels and Restaurants Act 1984
Income Tax Act 1993
Industrial Licensing Act 1969
Industrial Licensing Act 2014
Industrial Property Order 1989
Labour Code Order 1992
Land Act 2010
Land Administration Authority Act 2010
Lesotho Revenue Authority Act 2001
Mines and Minerals Act 2005
Minimum Wages Order 2011
Pioneer Industries Act 1969
Trading Enterprises Act 1993
Trading Enterprises Regulations 2011
Trading Enterprises Regulations 2012
SADC Protocol on Finance and Investment
Value Added Tax Act 2001