



Protocol on Finance and Investment Baseline Study: Lesotho Country Report

August 2011



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A report reflecting the state of progress of implementation of the Protocol on Finance and Investment in SADC

Imprint

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LIST OF ABBREVIATIONS

AATM	Agreement on Assistance in Tax Matters
ACH	Automated Clearing House
AGOA	African Growth and Opportunity Act
ATAF	African Tax Administrators' Forum
BEDCO	Basotho Enterprise Development Corporation
BIS	Bank for International Settlements
BoS	Bureau of Statistics
CBL	Central Bank of Lesotho
CCBG	Committee for Central Bank Governors
CISNA	Committee for Insurance, Securities and Non-banking Financial Authorities
CLC	Cheque Line Clearance
CMA	Common Monetary Area
COSSE	Committee for SADC Stock Exchanges
CSTO	Committee for Senior Treasury Officials
DFI	Development Finance Institution
DfID	Department for International Development
DTAA	Double Taxation Avoidance Agreements
ECF	Extended Credit Facility
EFT	Electronic Funds Transfer
EPA	Economic Partnership Agreement
ESAAMLG	East and Southern African Money Laundering Group
EU	European Union
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FIP	Finance and Investment Protocol
FIRST	Financial Sector Reform and Strengthening
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
ICSID	International Convention on the Settlement of Investment Disputes
ICT	Information and Communications Technology
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund

IOPS	International Organisation of Pension Supervisors
IOSCO	International Organisation of Securities Commissions
IPA	Investment ProMTICMon Agency
JSE	Johannesburg Stock Exchange
LNDC	Lesotho National Development Corporation
LNPSC	Lesotho National Payments System Council
LRA	Lesotho Revenue Authority
MFA	Multi-fibre Agreement
MIGA	Multilateral Investment Guarantee Agency
MoFDP	Ministry of Finance and Development Planning
MTICM	Ministry of Trade and Industry, Cooperatives and Marketing
NBFIs	Non-banking Financial Institutions
NEPAD	New Partnership for Africa's Development
PAL	Payments Association of Lesotho
PPP	Public Private Partnership
RIPD	Regional Integration Policy Division
RISDP	Regional Indicative Strategic Development Plan
RTGS	Real Time Gross Settlements System
SACU	Southern African Customs Union
SADC	Southern African Development Community
SME	Small- and Medium-sized Enterprises
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organisation
USA	United States of America
VAT	Value-added Tax

1. CONTEXT

Lesotho is a small economy, characterised as a lower-middle-income country by the World Bank¹, with a Gross Domestic Product (GDP) of USD 1.58 billion in 2009² and a population of roughly 2 million³. Besides its membership to SADC, Lesotho is also a member of the Southern African Customs Union (SACU) and the Common Monetary Area (CMA). Combined with the African Growth and Opportunity Act (AGOA) agreement with the United States of America (USA) and the European Union's (EU) Economic Partnership Agreement (EPA)⁴, economic development in Lesotho in recent years has been driven by its interactions with the international economic community.

Lesotho recently experienced slow growth in real GDP per capita, despite a steady increase in total investment (as a percentage of GDP). Importantly, since gross national savings (as a percentage of GDP) does not show a similar upward trend, it is clear that investment is largely driven by foreign sources of funding. Previous years of higher growth were largely due to Phase 1 of the Lesotho Highlands Water Project⁵, developments in the textile sectors and the opening of new mines, for example the Letseng diamond mine. However, the expiration of the Multi-fibre Agreement (MFA) in 2004/2005, the closure of two mines, the scaling down of Letseng's operations and the shutdown of three major textile firms⁶ has resulted in an economic slowdown in Lesotho. International Monetary Fund (IMF) officials forecast that Lesotho will have higher growth between 2012 and 2014, due to the initiation of Phase II of the Lesotho Highlands Project and the construction of the Metolong Dam⁷.

A key characteristic of the Lesotho economy is its reliance on donor funds and grants, and SACU receipts as the primary sources of government revenue. The dependence here is so strong that Lesotho ran its first deficit after many years of large surpluses during the recent economic slowdown. Ultimately, this is because Lesotho's economic outlook is heavily reliant on global demand for SACU goods and because of current and on-going donor-funded projects in operation in the country. The IMF reports that fiscal deficits are projected to expand by more than 2% this year, as the pace of global economic recovery proves to be slower than expected.

¹ <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>

² World Bank. 2010. World Bank Databank. <http://databank.worldbank.org/ddp/home.do>

³ NEPAD Business Foundation. 2009. Africa – New Horizons.

⁴ Lesotho is a substantial beneficiary of both these agreements

⁵ The Lesotho Highlands Water Project was identified more than 50 years ago as a means of exploiting a cost effective water source for both the peoples of Lesotho and South Africa, by providing revenue to Lesotho, generating hydro-electrical power to Lesotho, and to undertake ancillary developments like the provision of water for irrigation. The project is to be implemented over four phases. More information is available at <http://www.lhwp.org.ls/overview/default.htm>

⁶ Largely due to the slowdown in US demand for textiles and clothing during the financial crisis

⁷ IMF. World Economic and Financial Surveys – Sub-Saharan Africa Recovery and New Risks. April 2011. [available online] <http://www.imf.org/external/pubs/ft/reo/2011/afr/eng/sreo0411.htm>

Given the ancillary effects arising from the global financial crisis, the Lesotho government signed an Extended Credit Facility (ECF) agreement⁸ with the IMF and the economy is now under IMF review. Therefore, Lesotho has had to abide by structural and quantitative benchmarks that are in many cases much stronger than the Protocol for Investment and Finance (FIP's) macroeconomic convergence targets. Moreover, the ECF agreement emphasises the introduction of a new Financial Institutions Act, to strengthen the supervision and regulation of banks and non-banking financial institutions (NBFIs) beyond what has been committed to under the FIP.

For the purposes of this report, it is important to note that certain positive developments that are in line with FIP commitments may be due to other forces at work in Lesotho; namely SACU and CMA membership or the ECF programme. The mutually reinforcing nature of SACU and CMA membership and the ECF programme makes it difficult to affirm the extent to which progress is solely due to FIP commitments. An attempt has been made to calibrate progress to the relevant area of FIP commitment during interviews with Lesotho stakeholders, and issues arising in this regard will be discussed under the relevant Annexes.

2. STATUS OF IMPLEMENTATION

2.1. STATUS OF FIP RATIFICATION

Lesotho is a founding member of the Southern African Development Community (SADC), having signed the SADC Treaty on 17 August 1992, which was then ratified on 26 August 1993. Lesotho signed the Finance and Investment Protocol (FIP) on 18 August 2006, and deposited instruments of ratification with the SADC Secretariat on 11 August 2008.

2.2. FIP STRUCTURES

The Ministry of Trade and Industry was the original coordinator of all regional policy initiatives including the FIP. Recently, a Regional Integration Directorate has been established in the Ministry of Finance and Development Planning (MoFDP), and is tasked with coordinating all initiatives of SACU, SADC and all other regional economic communities.

Since this is a fairly new coordinating structure, personnel are still finding their feet. Interviewees within the Regional Integration Directorate stated the main difficulty now resides in understanding what is required by the FIP and what tasks the Regional Integration Directorate is required to oversee, coordinate and manage. This illustrates a need for both capacity-building and training on the substance of the FIP.

Lesotho chairs the Tax and Taxation Related Matters (Annex 3), with the director of the Lesotho Revenue Authority (LRA) as acting chairman. Lesotho is represented on all FIP subcommittees, except Committee for Insurance, Securities and Non-banking Financial Authorities (CISNA) and COSSE (Committee for SADC Stock Exchanges). The Lesotho National Development Corporation (LNDC) and the Basotho Enterprise Development

⁸ Three year ECF arrangement for SDR 41.88 million, which is about USD 66.9 million

Corporation (BEDCO) are represented in the SADC Development Finance Institution (DFI) network. Appendix 1 contains a list of stakeholders interviewed for the purposes of this study.

2.2.1. ANNEX 1: COOPERATION ON INVESTMENT

As a percentage of GDP, Lesotho attracted 5.22% in Foreign Direct Investment (FDI) inflows in 2007 which increased to 6.61% in 2008. However, since Lesotho is a small dependent economy, the slowdown in global economic performance resulted in FDI inflows plummeting to 2.13% of GDP in 2009⁹. According to the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM) officials interviewed, Lesotho does not track FDI statistics¹⁰ internally but rather relies on IMF and World Bank publications to monitor their progress. This lack of coherent data management and data systems has been identified by the officials interviewed as a key constraint in their ability to draft policies and strategies. Further, the MTICM does not publish investment codes, policies or guidelines on its website. The MTICM officials interviewed speculated that information may be available on the LNDC website, but were unsure as to the content and breadth of this information.¹¹

Lesotho is ranked 146th in the world for Protecting Investors by the World Bank Doing Business Report 2011. Lesotho scores 3.7 out of 10 in the Strength of Investment Protector Index [where a score of 0 is very weak and a score of 10 is very strong]. Lesotho scored 3.7 consistently over the past 4 years¹² in this index, demonstrating no progress in improving the criteria on which this index is scored; namely, the extent of disclosure, the extent of director liability and the ease of shareholder suits. Lesotho is a signatory of the International Convention on the Settlement of Investment Disputes (ICSID) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), as well as a member of the Multilateral Investment Guarantee Agency (MIGA)¹³.

Lesotho has designed and drafted a consolidated industrial policy and an investment promotion policy, the latter entitled "Promotion and Protection of Investors and Investment". This shows Lesotho is aware of the importance of protecting investors, which has become a core focus of the MTICM's investment promotion activities but has not yet been implemented. Further, the subcommittee members interviewed stated that nationalisation and expropriation of investment has never been a policy of the Lesotho government. In terms of the proposed industrial policy and investment policy, the MTICM have encountered significant challenges and internal constraints. The interviewees stressed that capacity building is an immediate and urgent requirement, especially in terms of drafting comprehensive and coherent investment incentives and investment promotion strategies. Given that funding has not been available to address these constraints in an impactful manner, the MTICM has opted to send the draft

⁹ World Bank. 2010. World Bank Databank. <http://databank.worldbank.org/ddp/home.do>

¹⁰ For both inter-regional and intra-regional FDI

¹¹ Information available at: <http://www.lndc.org.ls/Incentives.htm>

¹² World Bank. 2011. Doing Business Survey. <http://databank.worldbank.org/ddp/home.do>

¹³ Information available at: <http://www.lndc.org.ls/Incentives.htm>

policies to UNCTAD (United Nations Conference on Trade and Development) and UNIDO (United Nations Industrial Development Organisation) for review and commentary.

Lesotho has identified its poor performance in the World Bank Doing Business indicators as an area for immediate redress and reform. To this end, the MTICM have implemented a number of initiatives, most notably a One Stop Business Facilitation Centre for local and foreign investors looking to establish businesses within Lesotho. The idea is to minimise the number of obstacles businesses encounter when investing in Lesotho, including improving regulatory and legislative transparency and minimising administrative burdens on investors. It was realised that in order for the One Stop Shop to be effective it must offer a comprehensive solution to business, and so must be cross-cutting, requiring reform in a variety of government departments. Improvements have, to date, been made in the Ministry of Home Affairs and currently, the Registrar of Companies is being moved from the Department of Legal Affairs to the MTICM.

In terms of the proposed SADC Regional Investment Framework, MTICM officials interviewed stated that this has not been discussed in much detail during subcommittee meetings and is still at a very speculative stage. Lesotho's viewpoint is that the practicality of the framework is the most important criteria, since it has to be relevant and appropriate given each member states' economic context and investment priorities. In general, it is difficult to gain consensus to adopt common regional policies, first at a regional subcommittee level and then in terms of convincing domestic stakeholders to adopt these common regional policies. Lesotho, therefore, will strive to harmonise rather than to adopt common standards¹⁴. However, both the proposed industrial policy and investment policy have used other SADC countries' policies as a guide and reference. The rationale behind this benchmarking was that it would help to align Lesotho's policy framework to those in the region. Lesotho is committed to the process of drafting a regional investment framework to the extent that it will give the country exposure to international best practise, experience in drafting policy documents and strategies, and will act as a benchmark for Lesotho's domestic policy¹⁵.

The MTICM officials stated that, even though the LNDC and the BEDCO are considered DFIs within the SADC DFI network, they also act as investment promotion agencies (IPAs) within Lesotho. LNDC is focused on promotion both local and foreign investment, while BEDCO concentrates on promotion and supporting indigenous Basotho enterprise. The MTICM accompanies LNDC and BEDCO when they attend trade fairs and exhibitions¹⁶, believing that this international exposure is crucial to acquire knowledge, information and skills.

Of greatest concern to the MTICM officials interviewed is that Lesotho is still unsure whether its investment promotion strategies are suitable to effectively attract investment and how to best implement these strategies. The MTICM officials cited an example of current investment incentives, where the MTICM provides factory shells to foreign investors looking to set up

¹⁴ Perspective of the Lesotho Ministry of Trade and Industry officials, represented on the Investment Subcommittee

¹⁵ Perspective of Lesotho Ministry of Trade and Industry officials, represented on the Investment Subcommittee

¹⁶ However, due to the economic slowdown, the MTICM has not organised visits to trade fairs and exhibitions in the last two years.

factories within Lesotho. These proved effective in attracting investors, however the MTICM ran out of financing to be able to provide factory shells in sufficient quantities and quickly enough to suit investors. Since these factory shells were the main factor attracting investment, investors have since left.

Due to such occurrences, coupled with significant investment competition in the region¹⁷, Lesotho's MTICM believe that it is important to ensure that the investment climate and factors affecting the ease of doing business within the country are prioritised in national policy. This approach is cited by MTICM officials as being critical to economic recovery and development, since it is important for Lesotho to concentrate on challenges and issues within its control and capacity to address. However, it was also emphasised that in order for Lesotho to engage effectively in this process, the country needs to play "catch up" because it is lagging behind progress in the region.

Finally, the MTICM officials stated that coordination of FIP activities within Lesotho is very low. The various ministries, departments and units are not sure who is working on which aspects of the FIP. The view was expressed that it is next to impossible to identify and address issues and areas of intervention, and to design and implement initiatives when coordination at domestic level is non-existent.

2.2.2. ANNEX 2: MACROECONOMIC CONVERGENCE

The MoFDP does not collect, compile or publish data and statistics, as this responsibility has been delegated to the Bureau of Statistics (BoS). All relevant data is posted online by the BoS¹⁸. However, the MoFDP provides data to the SADC Secretariat when requested. Since the previous matrix of indicators was shared with subcommittee members, Lesotho's MoFDP has been monitoring indicators on inflation, the fiscal balance and external debt stock. However, regarding the external debt stock, there is confusion within the MoFDP as to what category of debt is referred to in the FIP, and whether this debt is concessional or non-concessional.

Lesotho's inflation rate¹⁹ entered the double-digit range in 2008 at 10.7%, but has since decreased to 8.03% in 2009 and is, therefore, within the Regional Indicative Strategic Development Plan (RISDP) target range of below 9.5%²⁰. However, the MoFDP officials interviewed stated that the inflation target is of secondary importance to Lesotho. As a member of the CMA, Lesotho's monetary policy is mandated to peg the exchange rate to the South African rand. Moreover, as a small dependent economy, Lesotho imports inflation²¹ and is subject to intense inflationary food pressures. Combined with low foreign exchange reserves,

¹⁷ Lesotho MTICM officials claim that Lesotho experiences fierce competition on investment with Swaziland and Botswana, and that there is little likelihood for these countries to cooperate on all aspects of investment policy [but that this is competition is "only natural"]

¹⁸ Information available at: <http://www.bos.gov.ls/>

¹⁹ Overall fiscal year average

²⁰ World Bank. 2010. World Bank Databank. <http://databank.worldbank.org/ddp/home.do>

²¹ Due to high import volumes from South Africa, specifically, and the rest of the region.

the MoFDP believes that monetary policy should concentrate only on the exchange rate since this is all Lesotho is currently able to handle.

Lesotho's overall fiscal balance²² rose from a deficit of 2.7% in 2009 to a deficit of 8.1% in 2010²³. Lesotho's fiscal balance is now outside the target range (below 5%) specified in the RISDP. The expansion in the deficit follows a lengthy period of large fiscal surpluses, and comes as a result of the country's dependence on SACU receipts to boost revenue and official grants. Both SACU receipts and official grants suffered due to the global economic slowdown²⁴, with the ancillary effect on Lesotho's fiscal balance. Importantly, MoFDP officials interviewed stated that Lesotho is committed to realigning its fiscal balance to meet the RISDP targets. The SADC Macroeconomic Convergence targets provide a reference point and anchor for domestic fiscal policy. Prior to the introduction of the RISDP targets, Lesotho was unsure as to what was meant by a prudent and sustainable fiscal deficit. The adoption of the RISDP target, in this instance, has been very helpful in driving reforms within the MoFDP, and have informed IMF consultations regarding Lesotho's medium term budgetary framework²⁵.

Lesotho's external debt stock has decreased from a medium term high of 39.6% in 2008 to 37.8% in 2009²⁶. Despite this increase in external debt, MoFDP representatives are convinced that the external debt stock would not increase beyond the FIP macroeconomic convergence target of 60% of GDP.

Lesotho is supportive of the proposed SADC peer review mechanism. Lesotho is currently subject to IMF review as a participant in the IMF's Extended Credit Facility (ECF) programme. MoFDP officials interviewed believe that the existence of a regional peer review mechanism will strengthen Lesotho's performance in IMF reviews. Additionally, since the proposed mechanism is confined to the region, it will be specific and specialised on the regional context. This means that interventions and processes will be more relevant to member states than the reviews conducted by large international institutions, since the mechanism will be cognisant of the particular issues facing member states. Lesotho believes that the proposed mechanism should use IMF processes and information requirements as a benchmark, since many SADC countries have experienced IMF review. However, the most important first step is to gain consensus on all processes, who will review who, and whether the mechanism will report to the

²² Including grants, as a percentage of GDP

²³ IMF. World Economic and Financial Surveys – Sub-Saharan Africa Recovery and New Risks. April 2011. <http://www.imf.org/external/pubs/ft/reo/2011/afr/eng/sreo0411.htm>

²⁴ IMF. World Economic and Financial Surveys – Sub-Saharan Africa Recovery and New Risks. April 2011. <http://www.imf.org/external/pubs/ft/reo/2011/afr/eng/sreo0411.htm>

²⁵ Perspective and information provided in an interview conducted with Lesotho MoFDP officials, during the country visit.

²⁶ IMF. World Economic and Financial Surveys – Sub-Saharan Africa Recovery and New Risks. April 2011. <http://www.imf.org/external/pubs/ft/reo/2011/afr/eng/sreo0411.htm> [Figures as a percentage of GDP]

Committee for Senior Treasury Officials (CSTO) or the Committee of Central Bank Governors (CCBG)²⁷.

Overall, the MoFDP officials interviewed believe that there is progress under this Annex. However, challenges arising from the financial crisis and subsequent global economic slowdown have halted progress. Member states have found it necessary to concentrate on domestic issues and regional issues and commitments have “taken a backseat”. Further, it is uncertain when activities under this Annex will resume, since Lesotho is not sure of the pace of recovery. Lesotho is currently consolidating revenue flows, dealing with imported inflation, and inflation arising from food pressures. This situation is exacerbated by the fact that Lesotho’s economic recovery is contingent on global economic recovery; since global demand is the key determinant of SACU receipts which determines fiscal revenues and thus, fiscal policy²⁸.

2.2.3. ANNEX 3: COOPERATION IN TAXATION AND RELATED MATTERS

Lesotho is the chair of the Tax Subcommittee and has signed the SADC Agreement on Assistance in Tax Matters (AATM). Even though the SADC Tax Database webmaster resides in the LRA, interviewees stated that the webmaster and the SADC Secretariat need to be more proactive in updating the database. The LRA personnel attended two training events, but are awaiting their passwords and usernames for remote updating of the website. Moreover, even though documents containing the required information have been prepared and submitted to the SADC Secretariat, this information is not available online. Notwithstanding these obstacles, the LRA representatives interviewed stated that the SADC Tax Database will be a very useful tool, especially to track the level of harmonisation and to help guide subcommittee energies.

The MoFDP have established a Tax Policy Committee, which has representation from both the MoFDP and the LRA. The Tax Policy Committee drafted a tax policy code, which contains principles to observe. On the basis of this code, representatives of the LRA claim that Lesotho is receptive to alignment to the proposed SADC indirect tax guidelines. The LRA has participated in Value-added Tax (VAT) and excise guidelines discussions and have a broad idea of what these will cover. It is, therefore, the belief of the LRA representatives interviewed that the guidelines will be satisfactory to Lesotho, although it is too early in the drafting process to affirm the level of compliance.

In terms of the proposed guidelines on tax incentives, the LRA representatives believe that this is a controversial issue but are pleased with progress in establishing a common ground at subcommittee level. The LRA representatives interviewed stated that Lesotho does not offer many tax incentives, and so has very little to lose in reforming tax incentive policy to be in line with SADC tax incentives guidelines. Prior to 1993, there were many tax incentives, however subsequently the majority of these have been removed. This reform process was accompanied by attempts to broaden the tax base and to decrease the tax rate in order to improve compliance. The LRA has also decreased the list of zero-rated VAT goods to be in line with other countries in the region.

²⁷ Perspective and information provided by Lesotho MoFDP officials.

²⁸ Perspective provided by Lesotho MoFDP official

On the area of tax incentives, the LRA representatives cited an example of politicians' proposals to introduce terminal benefits to exempt senior government officials from taxation. The LRA representative stated that their primary line of defence to argue against this policy was to draw on the discussions and recommendations arising out of SADC subcommittee meetings. Moreover, the 2011 Budget Speech contained an LRA proposal to remove multiple VAT rates in an effort to streamline Lesotho's indirect taxes as wholly informed by developments at subcommittee level. The LRA representatives are happy to have SADC guidelines to act as a curb and an excuse against poor policy-makers.

Lesotho uses the SADC Double Taxation Avoidance Agreement (DTAA) and has signed DTAA's with South Africa, Botswana and Mauritius. Negotiations to sign DTAA's with Namibia, Seychelles and Swaziland are currently in progress. The LRA representatives stated that these negotiations are really slow, even where subcommittee members gain consensus at subcommittee meetings, because it is exceptionally difficult to obtain political buy-in and to get the agreements passed through various ministries and government departments. For example, negotiations with the Seychelles were completed in 2007; however the DTAA still needs to be signed.

The LRA uses a cost-benefit analysis tool to investigate the removal of tax exemptions and tax incentives. This tool is used per request, in order to assess the revenue implications of changes in the tax regime. The LRA have sent a number of officials on both SADC and African Tax Administrators' Forum (ATAF) capacity building events. The two that have been particularly useful were regarding transfer pricing and the negotiation of tax treaties. The LRA stated that these capacity building initiatives have proven to be invaluable.

The LRA has no involvement in tax and customs disputes since these are delegated to the Office of the Attorney General. Therefore, the LRA is uncertain of what the stance will be in any discussions of the establishment of a SADC Tax Tribunal. The LRA representatives stated that they believe there is a good working relationship between tax authorities in the region and that informal structures have proven to be acceptable. However, with greater integration, there will be an increased need for a SADC Tax Tribunal²⁹.

2.2.4. ANNEX 4: COOPERATION AND COORDINATION OF EXCHANGE CONTROL POLICIES

In line with South Africa's liberalisation of exchange controls, Lesotho has liberalised its current account. However, indicative limits remain in some instances, for example on monetary gifts and travel allowances. For instance, while South Africa allows an annual travel allowance [single discretionary allowance] of ZAR 1 million a year, Lesotho has a limit of ZAR 330, 000. While South Africa allows residents to export domestic banknotes up to ZAR 10, 000, Lesotho and the other CMA countries have a limit of ZAR 5, 000³⁰. The Central Bank of Lesotho (CBL) officials interviewed stated that the difference in amounts of restrictions is due to the difference in sizes of CMA economies and motivated by the demand for currency.

²⁹ Perspective provided by LRA representatives interviewed.

³⁰ Keith Jeffries. Forthcoming. 'Status of Exchange Controls in SADC'

There are also differences in the limits on financial (capital) outflows imposed by Lesotho, Namibia and Swaziland (LNS) as compared to South Africa. Lesotho did not follow the capital account liberalisation undertaken by South Africa in 2010, and retains somewhat more restrictive exchange controls³¹. Again, CBL officials stated that the differences in capital account controls between the CMA countries are mainly informed by these economies' divergent natures and needs.

Lesotho's exchange control liberalisation programme is largely based on developments in the CMA³². The CMA countries are signatories of an agreement to maintain a similar pace of liberalisation. Importantly, this agreement includes a concession for the other CMA countries to not liberalise faster than South Africa. In other words, Lesotho can lag behind South Africa's exchange control liberalisation progress, but cannot liberalise faster. CBL officials stated that the Bank has a stated commitment to liberalise and ensure that the pace of liberalisation is aligned to the demands of a modern, globalised world. However, the CMA political arrangement means this is beyond Lesotho's control³³.

The Lesotho Maloti is fully convertible into South African Rand. Since the Rand is fully convertible into all major currencies, the Maloti is also fully convertible both within the region and internationally.

In line with developments in South Africa, Lesotho has implemented a Cross-border Reporting System to track and record data on exchange transactions. This system is online and is being used by three banks operating in Lesotho³⁴. Data is collected in real time and submitted daily to the CBL, who checks the data daily³⁵. Reports on foreign exchange transactions are completed monthly, but are also completed more frequently if demanded.

Lesotho has also signed the Multilateral Monetary Agreements with the other CMA countries with respect to the conversion and repatriation of bank notes. Surplus Rand bank notes are sent to the South African Reserve Bank when necessary, and Maloti legal tender are either fetched from other CMA central banks or the CBL waits to receive. The regularity of repatriation is based on what is convenient for the central banks in the region to maintain their reserve requirements³⁶.

The roadmap for exchange control liberalisation has been drafted at regional level. The CBL has submitted its comments and revisions on the proposed matrix. However, the draft is yet to

³¹ Keith Jeffries. Forthcoming. 'Status of Exchange Controls in SADC'

³² The CBL officials noted that these developments are largely driven by South Africa.

³³ Perspective provided by CBL representatives interviewed

³⁴ There are four banks operating in Lesotho. Three are branches of South African banks and the fourth is a Lesotho bank. The Lesotho bank does not submit data to the Cross Border Reporting System, primarily because it does not engage in foreign exchange transactions.

³⁵ The CBL would also intervene daily if necessary; however this has never been necessary as yet.

³⁶ Information provided by CBL officials.

be approved by all member states³⁷. CBL officials interviewed stated that there are critical political bottlenecks in the process of achieving full liberalisation of exchange controls within the region. For the CMA countries, in particular, constraints exist regarding the pace of liberalisation.

2.2.5. ANNEX 5: HARMONISATION OF LEGAL AND OPERATIONAL FRAMEWORKS

The CBL official interviewed is a representative on both the Legal and Operational Frameworks Subcommittee and on the CCBG Secretariat. Therefore, while having a firm grasp on issues specific to the Legal and Operational Frameworks Subcommittee, the official also acts as a coordinator within the CBL, having knowledge of progress in many areas of the FIP.

The CBL official interviewed has been involved in the drafting of the SADC Model Act and has substantial knowledge of the document. The CBL accepts the document, and believes adoption of the guidelines with the Act will enhance the role and capacity of the CBL. The CBL has conducted workshops on the SADC Model Act with the CBL Board of Directors as well as the Monetary Committee. All CBL stakeholders are, therefore, in agreement that the document is satisfactory and relevant to the Lesotho context.

Concerning the SADC Model Bank Act, the CBL is currently engaged in the drafting process of a new Bank Act. The current Bank Act has been in place since 2000. However, given the provisions of the SADC Model Act, the official interviewed believes that it is necessary to repeal the current Bank Act rather than amend it to be aligned with the SADC Model Act. The CBL has drafted a policy document to gain approval from the Ministry of Finance in order to begin the process of repeal. Once the Ministry of Finance approves this policy document, it will go to Cabinet for approval. Importantly, however, the CBL Board of Directors has approved the SADC Model Act as a benchmark for Lesotho's Bank Act.

In general, the current CBL operations and frameworks are supportive of alignment to the SADC Model Act. The main area of divergence regards the treatment of unrealised gains and losses. The stipulations within the Model Act are in compliance with those of the International Financial Reporting Systems (IFRS), which are not applied in Lesotho³⁸. However, in terms of operational independence and the mandate of price stability, the CBL is supportive of the criteria within the SADC Model Act. In fact, according to the official interviewed, the SADC Model Act is an important benchmark which will give the CBL considerable power to affect change within the domestic legal system.

The official interviewed believes that the objective of establishing a common SADC Central Bank is an important focal point. Moreover, this objective is a crucial step within the natural progression towards the achievement of various other SADC objectives. A SADC Central Bank is essential to give impetus to the regionalisation of monetary policy with the central goal of achieving and maintaining price stability. The main concern raised was regarding an overly

³⁷ Information calibrated from that submitted by South African Reserve Bank Officials.

³⁸ It is important to note that these standards are not applied in most central banks in the SADC region.

ambitious target date, which is at odds with the divergence in economic development in the region. However, the official interviewed affirmed that Lesotho is not a dissenting voice on this issue. Instead, Lesotho is committed to achieving this fundamental objective of the FIP.

Regarding coordination at a domestic level, the official interviewed stated that there is substantial coordination between Legal and Operational Frameworks members and those belonging to the Payments Systems subcommittee. Moreover, as the Lesotho representative on the CCBG, the official stated he believes that CBL staff share synergies and should coordinate efforts regarding FIP activities across subcommittees reporting to the CCBG.

2.2.6. ANNEX 6: COOPERATION ON PAYMENT, CLEARING AND SETTLEMENT SYSTEMS

Lesotho has fully implemented a real-time gross settlements (RTGS), called the Lesotho Wire. This RTGS was implemented in August 2006. The Lesotho Wire is a wholesale payments system, processing large value and time critical payments, with amounts larger than Maloti 100, 000.

A computerised clearing system exists between banks in Lesotho; however this is not real time or automated. The CBL is currently in the process of implementing an Automated Clearing House (ACH). This process is in an advanced stage, with four new payments systems being proposed; namely, an electronic funds transfer (EFT) system, a cheque line clearance (CLC) system, a debit and credit system and a real time clearing house system. Funding of this project was through the Millennium Challenge Account Lesotho, but has been terminated as of December 2010. Since Payments Association of Lesotho (PAL) and BANKSERV in South Africa have offered to provide funding to complete the ACH project. The EFT and CLC systems are expected to be completed and implemented this year, with the former to be launched in October 2011 and the latter to be launched in December 2011³⁹.

The two systemically Important Payment Systems in Lesotho namely, Lesotho Wire and the Maseru Clearing and Settlement House (MCSH) are subject to daily verification by NPS Oversight and periodic audits by the CBL Internal Audit division. The NPS Oversight is a section within the Department of Operations of the CBL. However, the CBL official interviewed stated that there is a shortage of trained staff within this unit, especially since the two trained personnel have recently been transferred to different departments. Therefore, even though necessary systems have been devised for onsite and offsite supervision of payments systems, the CBL has not made much progress in this area.

Furthermore, the CBL official reported that a risk monitoring framework has been devised to identify and manage risks; however it is still to be approved by CBL management. Risk audits are conducted annually, which checks the Lesotho Wire's compliance to the Bank of International Settlements (BIS) Core Principles for Systemically Important Payments Systems.

³⁹ Information provided by CBL official. The official is unsure as to why funding was terminated, but anecdotal evidence suggests that the Millennium Challenge Account believes that Lesotho was not in adherence to its guidelines regarding the existence of a NPS Act. Furthermore, it is believed that the Millennium Challenge Account voiced that commercial banks were not cooperating in providing debit and credit cards.

The CBL official stated that a legal framework for the national payments system has been drafted, in collaboration with Lesotho members of the Legal and Operational Frameworks subcommittee. This Bill was completed in 2005 and submitted to Office of Parliamentary Counsel (OPC) for enactment. However, the Bill is yet to be enacted by parliament. The CBL constantly monitors progress in this regard, and is hopeful that the Act will be passed by the end of 2011.

In the meantime, the Lesotho Wire Rule Book is used to govern the operations of Lesotho Wire. The NPS Bill sets out all rules and arrangements for the national payments system. The Rule Book outlines rules governing the Lesotho Wire Operations, including binding agreements signed between the CBL and all participant banks. To this end, it is important to note that the CBL is both a participant and a regulator in the national payments system, and is both subject to, and an enforcer of these rules⁴⁰.

Lesotho has completely adopted the Payments Systems Strategy which has been completed for the CMA pilot. Once this strategy has been proven in the CMA, it is proposed at regional level that it be implemented in all other SADC countries. Currently, the CBL is engaged in preparing for the CMA pilot which aims to integrate the payments and clearing systems within the bloc. This preparation is concentrated on clearing up all foreseeable legal issues that may arise, as well as engaging in discussions with other CMA countries regarding issues of currency. To date, it has been decided that cross-border payments in the proposed linked CMA payments system will be in South African Rand. It has also been decided that CMA clearing systems will be based on the Rand and centralised to the South African Reserve Bank⁴¹.

Regardless of progress in the CMA pilot, challenges remain. The CBL official interviewed stated that Namibia, Swaziland and Lesotho are very small economies when compared to South Africa, and therefore face serious information and communications technology (ICT) infrastructure and skills deficits. To this end, it is vital to address capacity and skills constraints before the launch of the CMA pilot.

The CBL official stated that there is significant interaction and cooperation between the CBL and the international banks operating in Lesotho. A Bankers' Meeting is convened regularly, and has met even more frequently of late in anticipation of the launch of the CMA pilot. At the Bankers' Meetings, the NPS Division reports on the performance of the Lesotho Wire and the Maseru Clearing and Settlement systems. Besides these meetings, the CBL also conducts quarterly meetings with Directors of Operations of the commercial banks. The CBL is also a member of PAL and was a member of the dissolved Lesotho National Payments System Council (LNPSC), which represents utilities, commercial banks and the CBL. An IMF consultant tasked with advising on Lesotho national payments system suggested that the LNPSC be re-established to improve domestic coordination.

⁴⁰ Information provided by CBL official.

⁴¹ Information provided by CBL official.

2.2.6.1. ANNEX 8: COOPERATION AND COORDINATION IN THE AREA OF BANKING REGULATORY AND SUPERVISORY MATTERS

Lesotho follows Basel I, and has considered moving on to Basel II. A Task Team was established in 2005 to investigate Basel II requirements and assess capacity required to implement these requirements at a country level. The Central Bank of Lesotho has formulated a Risk Management framework, to implement risk-based supervision⁴².

Lesotho has not been evaluated by the Financial Action Task Force (FATF), and no mutual evaluation reports are available on the website. However, Lesotho has signed the East and Southern African Anti-Money Laundering Group's (ESAAMLG) Memorandum of Understanding⁴³; however a mutual evaluation has not been completed for the country⁴⁴. The ESAAMLG website publishes Lesotho's Anti-money laundering/Combating finance terrorism (AML/CFT) strategy, which was drafted in January 2010, which incorporates the FATF's Forty Recommendations and Nine Special Recommendations on Terrorist Financing⁴⁵.

2.2.7. ANNEX 9: COOPERATION IN RESPECT OF DEVELOPMENT FINANCE INSTITUTIONS

Lesotho is a member of the DFI network, with the BEDCO and LNDC being network members⁴⁶.

BEDCO is a parastatal, wholly owned by government and reporting to the MTICM. BEDCO is managed by a Board, of which the LNDC is a member. The institution was established under the Basotho Enterprise Development Act number 9 of 1980. The Act was further revised in 2000. However, BEDCO has been in existence since 1975, fulfilling the mandate to facilitate the establishment and promote the development of indigenous Basotho enterprise. BEDCO works specifically with small- and medium-sized enterprises (SME) and is not mandated to engage in regional projects. Moreover, the institution does not have the capacity necessary to do so.

LNDC was also established by an Act of Parliament "...to initiate, promote and facilitate the development of manufacturing and processing industries, mining and commerce in a manner calculated to raise the level of income and employment in Lesotho"⁴⁷. LNDC's activities include matching businesses and companies with foreign investors, assisting domestic companies to

⁴² Central Bank of Lesotho. 2010. Annual Report.
<http://www.centralbank.org.ls/publications/2010%20Annual%20Report.pdf>

⁴³ Information available at <http://esaamlg.org/mcp/index.php>

⁴⁴ Information available at <http://esaamlg.org/reports/me.php>

⁴⁵ Information available at http://esaamlg.org/userfiles/Lesotho_AML_CFT_National_Strategy.pdf

⁴⁶ It was impossible to meet with the CEOs of both BEDCO and the LNDC. Information reported here was recorded during meetings with staff of these corporations and the provision of their latest annual reports. It was therefore impossible to investigate the extent of involvement and benefit of membership to the DFI network and DFRC.

⁴⁷ Lesotho National Development Corporation. 2009. Annual Report.

access international markets, capacity building activities, equity-funding of bankable projects and business expansion models. The LNDC also collaborates with the MTICM on various outward selling initiatives, like trade fairs and investment promotion fora. The LNDC representative interviewed stated that the corporation is investigating initiatives in the establishment of a coherent public private partnership (PPP) framework and how to use membership of the DFI network to aid Lesotho business to expand into the rest of the region.

It is apparent that these DFIs' mandates are at odds with the regional impetus of SADC DFI network activities. The LNDC and BEDCO are better regarded as IPAs operating within Lesotho, and should therefore be involved in SADC IPA Forum initiatives under Annex 1 of the FIP. This demonstrates a serious deficit in both regional and domestic FIP coordination.

2.2.8. ANNEX 10: COOPERATION ON NON-BANKING FINANCIAL INSTITUTIONS AND SERVICES

Lesotho is not a member of International Organisation of Securities Commissions (IOSCO), International Organisation of Pension Supervisors (IOPS) or International Association of Insurance Supervisors (IAIS). Ultimately, Lesotho's NBFIs are regulated and licensed by the CBL, which is not in compliance with these international standards. Supervised entities include moneylenders, asset managers in the form of collective investment schemes, ancillary financial institutions through monetary transfer services, foreign exchange bureaux, and the microfinance sector⁴⁸. However, in monetary terms, the collective investment schemes hold the largest proportion of assets, averaging 735 million Maloti⁴⁹ (roughly USD 110 million).

The CBL reports⁵⁰ that the sector experienced serious problems, especially in the moneylending business⁵¹, due primarily to weak regulatory frameworks. Furthermore, the CBL reports that a number of moneylenders closed operations or suspended loan disbursements. However, this reduction was commensurate with new entrants in the business. The state of this emerging industry prompted the CBL to commission FIRST (Financial Sector Reform and Strengthening) Initiative consultants to draft a policy and regulatory framework for NBFIs in the state. Subsequently, a legal framework for NBFIs has been drafted by the CBL, which is awaiting promulgation by parliament. A Finscope Study was also commissioned by the United Kingdom's (UK) Department for International Development (DfID) to identify obstacles and suggest interventions to develop a sound and responsive regulatory and supervisory framework for the NBFi sector.

The CBL Annual Report also discusses the Bank's credit bureau project. A consultant was engaged to draft laws and regulations for a credit bureau and two draft bills. The Credit

⁴⁸ This sector is still in its infancy

⁴⁹ This is compared to the next largest, which is 60 million Maloti for moneylenders.

⁵⁰ Central Bank of Lesotho. 2010. Annual Report.
<http://www.centralbank.org.ls/publications/2010%20Annual%20Report.pdf>

⁵¹ The CBL cites in its Annual Report that moneylenders have been sued by their clients for illegal interest charges. Lesotho courts found in favour of the clients.

Reporting Bill and the Lesotho Data Protection Bill have been submitted to parliament. Stakeholder input was also solicited during workshops. A consultant was also hired to train CBL staff on the supervision of a credit bureau. The CBL continued to undertake public awareness activities in an effort to inform the public about the establishment of a credit bureau, and to emphasise the benefits of having a credit bureau in Lesotho for consumers and for the economy at large. Workshops were held countrywide in which businesses were given training regarding the credit bureaus. Progress on this project was monitored by the Millennium Challenge Account-Lesotho.

CISNA members from Lesotho contribute to information sharing regarding consumer awareness campaigns⁵². For example, Lesotho reported that it was carrying on radio talk shows, newspaper articles and making use of its website to educate consumers. It also reports on market developments in the capital, securities, insurance and pension markets of Lesotho. Lesotho informed CISNA that its first government bond was issued in October 2010, and that the bond was well received by the market. The structure of the regulatory body within the CBL in Lesotho is being reviewed and it is envisaged that the proposed new structure will be adopted by the end of 2011.

Since a CISNA member was not interviewed during the country visit, the consultant was unable to assess the extent to which Lesotho contributes to the CISNA website, the level of cooperation at a regional level and the extent to which Lesotho benefits from regional capacity building initiatives.

2.2.9. ANNEX 11: COOPERATION ON SADC STOCK EXCHANGES

Lesotho does not have a stock exchange. Companies are able to list on the Johannesburg Stock Exchange (JSE)⁵³.

3. CONCLUSIONS AND RECOMMENDATIONS

3.1. CONCLUSIONS

The MTICM have made substantial progress in addressing the poor investment climate in Lesotho through a number of reforms and initiatives, including the One Stop Shop and Business Facilitation Centre. Moreover, the MTICM's support and collaboration with the LNDC and BEDCO is better considered an IPA programme than a development finance initiative. However, these initiatives are not informed by SADC activities or involvement in the FIP subcommittee for Annex 1. The MTICM's operations and contribution to FIP activities is lagging

⁵² This information was obtained from CISNA meeting minutes. Contact details of Lesotho CISNA members were not made available to the consultant. It is understood that NBFIs are currently regulated by the CBL; however the consultant was unable to meet with anyone within the CBL tasked with this.

⁵³ It was impossible to meet with anyone who has attended COSSE meetings, since their contact details have not been made available to the consultant. Thus, information on this Annex is insufficient to state that Lesotho is cooperating as per the mandate of this Annex. However, from COSSE meeting minutes it is clear that someone from Lesotho was in attendance at the most recent meeting.

in terms of data management, investor protection and the coordination of domestic activities. A key concern raised in the interview is that Lesotho is aware of the high degree of competition for investment within the region. Therefore, the MTICM stated emphatically that it is more amenable to harmonising investment principles than adopting any SADC regional frameworks. Furthermore, the MTICM's only interest in doing so is to access and converge on international best practise in investment policy.

In terms of the FIP's macroeconomic convergence targets, Lesotho meets two of the three targets but has exceeded the target for fiscal debt as a percentage of GDP. Within the MoFDP, there seems to be a high level of commitment to information sharing and to cooperating with other SADC member states. This commitment is partly informed by the importance of documents like the FIP to guide Lesotho's previously non-existent fiscal and monetary policy. It is important to note that Lesotho, as a small dependent economy, is subject to exogenous shocks and CMA developments. As such, Lesotho's pace of convergence is largely dependent on larger economies in the region.

Lesotho has made good progress under Annex 3, signing the Agreement on Assistance in Tax Matters, adopting much of the recommendations on indirect taxes and tax incentives, submitting information on tax policy to the SADC Secretariat, adopting the SADC model DTAA which has been completed with various countries, and using a cost-benefit analysis tool to inform tax policy decisions. Importantly, progress in this area is well-aligned with national interest because Lesotho has identified the need to consolidate its revenue base as a result of its dependence on SACU receipts.

Lesotho's progress in the liberalisation of exchange controls is mostly in line with the other CMA countries' progress. Differences in indicative controls are largely due to differences in the size of CMA countries' economies. Lesotho's capital account has not been liberalised, and in many instances controls are more restrictive than other CMA countries. The Maloti is 'indirectly' convertible into all major currencies and all regional currencies, due to pegging the South African Rand. The CBL has implemented a cross-border reporting system, and has signed a multilateral monetary agreement with the other CMA countries regarding the conversion and repatriation of bank notes. An important point was raised in the interview with CBL officials concerning Lesotho's⁵⁴ inability to liberalise exchange controls faster than the political arrangement of the CMA allows.

Lesotho has made substantial progress in aligning the CBL's legal frameworks to SADC Model Law, using the document as a benchmark. The CBL is also committed and acknowledges the importance of the central SADC goal of establishing a common central bank. The Legal and Operational Frameworks member and Payments Systems members have a close working relationship and good coordination within Lesotho. Progress in this Annex is perhaps attributable to the importance of continuity and institutional memory in driving progress and reform. The Legal and Operational Frameworks representative is a member of the CCBG Secretariat and was involved in drafting the SADC Model Law. Consequently it was far easier to convince the CBL board of the merit of the document as aligned to national interest. In comparison, there is far less coordination and progress within the MoFDP departments

⁵⁴ And the other CMA countries' inability

responsible to the FIP. This is primarily because the role is new to these departments and they are still trying to understand FIP structures and the progress that has already been made since the drafting of the protocol.

In terms of Annex 6, Lesotho has made progress in a number of areas; namely, the adoption of an RTGS for payments, the drafting and introduction of a risk management and risk audit framework, the drafting of a payments systems legal framework and the implementation of the rules included in this framework. These areas of progress are largely attributable to Lesotho's involvement in the CMA pilot and adoption of the CMA payments systems strategy. Progress has also been driven by the availability of donor funding for activities in this area. The CBL official interviewed stated that there are serious deficits in ICT infrastructures, requisite skills and staffing. This prompts a concern that Lesotho's progress in this Annex is largely dependent on donor funding.

Even though an interview was not conducted with a CBL official in banking supervision and regulation, it was gauged through desktop research that Lesotho has implemented Basel I requirements, has established a risk management framework reliant on risk-based supervision, and has made good progress in instilling an AML/CFT strategy.

The main issue of concern for Lesotho DFIs is that there is no regional focus to their activities. Instead, the LNDC and BEDCO concentrate on the development of SMEs, improving the investment climate for both domestic and foreign business, facilitating the establishment of PPPs and providing credit guarantees to local business. These activities are characteristic of IPAs and so it is questionable whether the LNDC and BEDCO should be members of the DFRC, or if their activities are better considered under Annex 1.

There are serious lags in the commitments under Annex 10. The NBFIs in Lesotho need serious reform and alignment of regulation with regional initiatives. Moreover, the development of a well-regulated, well-functioning capital market appears to be a critical deficit in Lesotho's business environment. This presents an obstacle to the growth of SMEs and larger businesses, and is perhaps the reason behind the plethora of foreign businesses operating in Lesotho. The CBL have commissioned consultants to advise in this area, but ongoing assistance is crucial. Moreover, it is clear that Lesotho, and other SADC countries at similar levels of development, will benefit greatly from the inclusion of microfinance activities under this Annex.

Even though Lesotho is seriously lagging behind regional progress in Annex 11, it is perhaps appropriate given the country's level of development and the state of the capital market within Lesotho. It is encouraging that Lesotho allows domestic companies to list on the JSE, rather than engaging in the expensive process of establishing a stock exchange.

3.2. RECOMMENDATIONS

The main deficit in Annex 1 is the technical expertise to draft investment incentives and investment promotion strategies and policies. Interviewees stated that there is an urgent need for capacity building in this area. For both Annex 1 and Annex 2, there is a need for improved information flows between the BoS and the MoFDP and MTICM.

Under Annex 3 the webmaster in Lesotho and the SADC Secretariat should be more proactive in getting the SADC Tax Database running.

Progress in Annexes 4, 5 and 6 are largely dependent on domestic and regional political will. Therefore, interventions should not be concentrated on these areas, except to the extent that there is capacity to influence political arrangements.

CBL officials have identified serious constraints in terms of ICT infrastructure deficits, skills shortages and a lack of capacity with too few personnel in the payments systems department. This is a possible area of intervention. The further and on-going development of Lesotho's payments and clearing systems are contingent on donor-funding, and as such the success of the CMA pilot is dependent on Lesotho's ability to access donor-funding. This is a critical area to be addressed to ensure that the SADC Payments Systems Project proceeds as planned.

The recommendation for Annex 9 is that the LNDC and BEDCO are considered as IPAs under Annex 1, and are involved in the IPA Forum rather than the DFRC.

Substantial intervention and assistance is needed in allowing Lesotho to converge on NBFi regulation and supervision best practise, and to address the blockages in passing Acts through parliament. Progress in this area is perhaps most likely to yield economy-wide benefits, and so should be prioritised as a key area of intervention. However, it is important that any assistance proposed in this area does not duplicate measures already being implemented under the ECF⁵⁵ and acts to reinforce measures that have already been implemented, for example the study conducted by Finscope and sponsored by DfID.

⁵⁵ As reported in <http://www.trademarksa.org/node/681>

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5. APPENDICES

5.1. APPENDIX 1: INTERVIEW LIST

Name	Subcommittee	Institution	Email
Mrs Mabaitso Motsamai	Investment	Ministry of Trade and Industry	Miriam52.motsamai@yahoo.com
Ms Sibongile Nkholise	Macroeconomic Convergence	Ministry of Finance and Development Planning	snkholise@finance.gov.ls
Dr Seth Macheli	Tax	Lesotho Revenue Authority	S.Macheli@lra.org.ls
Mr Maleshoane Morakabi	Tax	Lesotho Revenue Authority	m.morakabi@lra.org.ls
Adv. Motlatsi Malope	Legal and Operational Frameworks	Central Bank of Lesotho	mmalope@centralbank.org.ls
Mr Francis Lesojane	Exchange Control	Central Bank of Lesotho	lleuta@centralbank.org.ls
Ms 'Mabatho Malisema	Exchange Control	Central Bank of Lesotho	mmokhothu@centralbank.org.ls
Mr Mandla Motebang	Payments Systems	Central Bank of Lesotho	mmotebang@centralbank.org.ls
Staff of BEDCO	DFI	BEDCO	ceo@lndc.org.ls
Staff of LNDC	DFI	LNDC	ceo@bedco.org.ls
Mahalieo Nyanguru	None	RIPD	mahalieo.nyanguru@gov.ls
Mookho Moeketsi	None	RIPD	mookho.moeketsi@gov.ls

5.2. APPENDIX 2: MATRIX OF COMMITMENTS

Colour	Status
Achieved	Green
Partially achieved	Yellow
Not achieved	Red
Not assessed	White
Not applicable	Grey

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
None	None	FIP instrument ratified by all member states.	Green	SADC Secretariat	
None	None	National FIP coordinating structures in place to facilitate better FIP implementation.	Regional Integration Policy Division – new, poor coordination	SADC Secretariat	
Annex 1: Cooperation in Investment	5,6,8,9, 27	Existence of domestic investment law that: Protects investors, allow repatriation of profits, allows access to courts	Drafted but not implemented	IPA/ Responsible ministry	All three present = green

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	21	Signatory to international conventions: New York Convention		http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html	Member = green
	21	Signatory to international conventions: ICSID		http://icsid.worldbank.org/ICSID/FrontServlet?requestType=ICSIDDataRH&reqFrom=Main&actionVal=ViewContractingStates&range=A~B~C~D~E	Member = green
	21	Acceded to international conventions: MIGA		http://www.miga.org/about/index_sv.cfm?stid=1695	Member = green
	8	Investment policies, information etc. easily accessible to investors		http://www.lndc.org.ls/Home.htm	
	23	MS has an active IPA		Ministry of Trade and Industry	
	2	Member ranked above (or equal) to OECD average rating of the Strength of Investor Protection Index	3.7	http://www.imf.org/external/pubs/ft/scr/2010/cr10143.pdf	Better than or equal to OECD average = green; worse = red
	19	MS's national policies and regulations comply with the Regional Investment Policy Framework and/or the minimum principles for investment regimes in the region.	Not Assessed (not measured in 2011)	Ministry of Trade and Industry	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	19	Regional Investment Policy Framework is drafted and agreed to by MS	No standard framework yet exists in the region.	Investment subcommittee	
	23	Evidence of events and activities run by IPA Forum and attended by MS IPAs	The SADC IPA forum has been established, however the most recent event was poorly attended by CEOs of IPAs operating in MS	Investment subcommittee	
Annex 2: Macroeconomic Convergence	2,3,4	Inflation rate low and stable (< 9%)	8.03%	Ministry of Finance and Development Planning	Within range = green; out of range = red
	2,3,4	Public and publicly guarantee debt to GDP < 60%	37.80%	Ministry of Finance and Development Planning	Within range = green; out of range = red
	2,3,4	Budget deficit to GDP ratio at widely accepted prudent levels (< 5%)	8.10%	Ministry of Finance and Development Planning	Within range = green; out of range = red
	5,8	Cooperation/Information Sharing: submission of data to SMSD		Ministry of Finance and Development Planning	
	7	Cooperation/Information Sharing: participation in peer review panel	N/A	Ministry of Finance and Development Planning	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 2: Macroeconomic Convergence	7	The Peer Review Mechanism is approved for establishment and operational	Discussions towards establishment of the mechanism are on-going. Framework and guidelines have not yet been adopted. Generally, MS are supportive of the Peer Review Mechanism, but have specific concerns which need to be addressed at subcommittee level.	Macroeconomic Convergence subcommittee	
Annex 3: Cooperation in Taxation Matters	5.3	Number of DTAs signed with other SADC member states	3	Lesotho Revenue Authority	< = 6 red, 7 - 10 orange, 11 - 14 green
	2	Up to date and publicly available tax database (national)		Lesotho Revenue Authority	
	2	Up to date information submitted to SADC Tax Database (when fully operational)	N/A	Lesotho Revenue Authority	
	6.6	Signatory to the Mutual Agreement for Information Exchange with member states (AATM)	N/A	Lesotho Revenue Authority	
	6	Harmonised to the regional guidelines for the administration of Indirect Taxes	N/A	Lesotho Revenue Authority	
Annex 3: Cooperation in Taxation Matters	4	Harmonised to the regional tax incentives guidelines	N/A	Lesotho Revenue Authority	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 3: Cooperation in Taxation Matters Annex 3: Cooperation in Taxation Matters	3	Tax officials participate in capacity building activities		Ministry of Finance/Revenue Authority	
	5	Existence of Model Double Taxation Avoidance Agreement	Model DTAA and Commentary approved and adopted by all member states.	Tax subcommittee	
	4	Guidelines for the appropriate treatment of tax incentives drafted and approved for adoption by MS.	Drafting of guideline documents still in progress.	Tax subcommittee	
	4	A Fiscal Model for cost benefit analysis developed and approved by Ministers of Finance. Fiscal Model must comply with items articulated in Art. 4 section 5.	Cost Benefit Analysis model not yet developed.	Tax subcommittee	
	6	SADC Agreement for Assistance in Tax Matters (AATM) approved and signed by all member states (multi-lateral agreement).	Finalised in 2008, waiting for approval by Ministers of Justice/Attorneys General awaiting clearance and signature by Summit.	Tax subcommittee	
	6	Guideline for the administration of indirect tax in the region is approved for adoption by member states.	Still under review by the Indirect Taxation working group.	Tax subcommittee	
	7	Mechanism for the Settlement of Tax Disputes developed and approved by Ministers of Finance.	Has not been developed or approved for implementation	Tax subcommittee	
Annex 4: Cooperation on Exchange Control	2a	Liberalised Current Account		Central Bank of Lesotho	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 4: Cooperation on Exchange Control	2a	Liberalised Capital (Financial) Account		Central Bank of Lesotho	
	2c,3.1.c	Full Currency Convertibility	Direct with ZAR, indirect through ZAR	Central Bank of Lesotho	
	2d, 3d	Collect and publicise data on foreign exchange transactions (e.g. automated cross border reporting system)		Central Bank of Lesotho	
	2a	Roadmap for exchange control liberalisation in current and capital (and financial) account transactions is drafted and approved	The roadmap has been drafted by the subcommittee. All countries except the DRC have signed and approved the roadmap, and so it has not been implemented as yet.	Exchange Control subcommittee	
Annex 5: Harmonisation of Legal and Operational Frameworks	3b	Autonomy/independence of Central Bank		Central Bank of Lesotho	
	2	Compliant with SADC Central Bank Model Law (when/if made binding)	N/A	Central Bank of Lesotho	
	4.2	Adoption of price stability as mandate		Central Bank of Lesotho	
	3c	Ability of Central Bank to set own budget		Central Bank of Lesotho	
	2e	Extent to which central bank can lend to government	Yes - as determined by Board to be repaid within 93 days of end of FY	Central Bank of Lesotho	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 5: Harmonisation of Legal and Operational Frameworks	3	Existence of Model Central Bank Law	The Model Central Bank Law has been drafted and approved by all SADC member states	Legal and Operational Frameworks subcommittee	
	2	Roadmap for the establishment of a Common Central Bank developed and approved.	Legal & Operational Committee has recently been tasked with the development of a roadmap for the establishment of a single Central Bank. No progress yet on this matter.	Legal and Operational Frameworks subcommittee	
Annex 6: Cooperation on Payments Systems	3a	Payments systems in place domestically		Central Bank of Lesotho	
	3c, 3e, 4.1.c	Risk mitigation strategy implemented		Central Bank of Lesotho	
	4.1.d	Existence of national payments system law		Central Bank of Lesotho	
	2	National payment system law aligned to regional model law	N/A	Central Bank of Lesotho	
	2, 3d	MS linked to SADC regional payments systems (when operational)	N/A	Central Bank of Lesotho	
	2	Model Payment System Law developed and approved	Law is being drafted for approval at regional level	Payments System subcommittee	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 6: Cooperation on Payments Systems	3	Model Payment System Strategy is developed.	This is not in place yet. However, the strategy is being developed for the CMA countries to be piloted in this sub-regional bloc. The intention that this will allow a 'tried and tested' strategy to be rolled out to the rest of the region	Payments System subcommittee	
Annex 7: Cooperation in the area of ICT	3, 4	Legal framework for data privacy in place	Not Assessed (not measured in 2011)	Each Central Bank & IT Forum	To enable cross border business based on ICT taking in account that all business are supported by ICT platform
	3	Standard regarding ICT systems interpretability in place	Not Assessed (not measured in 2011)	IT Forum	Promote cross border business specifically for Payment Systems
	3.5	IT Governance framework adopted for the region.	Not Assessed (not measured in 2011)	Each Central Bank & IT Forum	
	3	ICT communication Infrastructure to connect member states in place	Not Assessed (not measured in 2011)	IT Forum	
Annex 8: Cooperation in Banking and Regulatory	2	Compliant with the 25 BASEL core principles	Compliant with Basel 1	Central Bank of Lesotho	Less than 20 = red; 21 to 25 orange; 25 green

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Supervision	2	Self-assessment audit happening on annual basis	Not Assessed	Central Bank of Lesotho	
	Annex 14	Membership of ESAAMLG & completion of a mutual evaluation		Central Bank of Lesotho	
	Annex 13	Compliant with international standards for auditing and accounting - IFRS	Not Assessed	Central Bank of Lesotho	
	2, 4	Regional agreement on framework for central bank supervision.	Harmonisation of banking supervision and regulatory principles in progress.	Banking Supervision and Regulation subcommittee	
Annex 9: Cooperation on Development Finance Institutions	3, 9	Participate in regional development projects through cooperation in pooling of funds, project identification, and project management.		LNDC and Bedco officials	
	3f, 7	Attending capacity building activities organised by DFRC (secondment, work placement, training)		LNDC and Bedco officials	
	Annex 1	PPP: Establishment of PPP Policy Framework, Legal Framework, Institution Framework	Not Assessed	Ministry of Finance or relevant ministry	
	2	The DFI network and DFRC are established and active.	Yes.	SADC Secretariat	
	11	Regional Insurance Guarantee system in place and approved.	The Regional Insurance Guarantee scheme has not been agreed upon or implemented.	DFI Network	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 9: Cooperation on Development Finance Institutions	3	Number of regional development projects in progress (where regional refers to projects with benefits to more than one country, or with more than one country collaborating on a project)	Only evidence of regional projects is DBSA projects, which are not necessarily attributable to the DFI network. No collaboration between DFIs on regional development projects.	DFI Network	
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	7	Membership of IOSCO (harmonising to international standards)		http://www.iosco.org/lists/display_members.cfm?memID=1&orderBy=none	
	7	Membership of IOPS (harmonising to international standards)		http://www.iopsweb.org/document/14/0,3343,en_35030657_35030370_35152654_1_1_1_1,00.html	
	7	Membership of IAIS (harmonising to international standards)		http://www.iaisweb.org/IAIS-members-31	
	3, 4, 5	Committed to information sharing (Multi-lateral agreement signed by all CISNA members)		Central Bank of Lesotho or relevant NBFi regulator	N.B. except Seychelles who has not yet participated in CISNA
	10	Participating in capacity building activities	Not Assessed	Central Bank of Lesotho or relevant NBFi regulator	
	9	Alignment to SADC regulatory framework for Non-Banking Financial Institutions (when drafted and approved)	N/A	Central Bank of Lesotho or relevant NBFi regulator	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	9	SADC regulatory framework for non-banking financial institutions established and approved for the region	SADC Framework is not yet developed. But progress has been made in that member states' NBFIs authorities have been tasked with drafting the various components of the framework.	CISNA	
Annex 11: Cooperation in SADC Stock Exchanges	2	Cooperation: Member of COSSE	N/A	Lesotho does not have a stock exchange	
	2	Cooperation: Information Exchange	N/A	Lesotho does not have a stock exchange	
	2.3	Participate in capacity building activities (either attend or host)	N/A	Lesotho does not have a stock exchange	
		MS harmonised to SADC common principles.	Not Assessed (not measured in 2011)	Lesotho does not have a stock exchange	
	2.5	MS who are completing the minimum standards for surveillance and risk assessment.	Not Assessed (not measured in 2011)	Lesotho does not have a stock exchange	
	2.7	Extent of diversification of the registered market participants on MS stock exchange (% individuals, % trusts, % corporates)	Not Assessed (not measured in 2011)	Lesotho does not have a stock exchange	