



## Doing Business in Lesotho: 2010 Country

### Commercial Guide for U.S. Companies

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## Chapter 1: Doing Business In Lesotho

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### Market Overview

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Lesotho is geographically surrounded by South Africa and economically integrated with it as well, the major economic sectors consists of manufacturing, mining, agriculture and services. Lesotho gets most of its foreign exchange through earnings from the Southern African Customs Union (SACU), water exports to South Africa, and to a decreasing extent, remittances from migrant laborers employed in South Africa. Lesotho also exports garments, diamonds, wool and mohair.

Some facts about the economy of Lesotho:

- Lesotho has diamond mines that produce some of the world's most remarkable white diamonds including the 478 carat D color white, Light of Letšeng, which sold in the difficult market conditions prevailing at the end of November 2008, for US\$18.4 million
- Lesotho is one of the top ten exporters to the United States under the AGOA
- In 2008, the United States was estimated to be the second largest destination of Lesotho's total exports (35.4%), after African countries (39.8%), and it is followed by European Union (24.4%).
- In 2007, the United States was the third largest source (16.2%) of foreign direct investment (FDI) in Lesotho; it comes after South Africa (40.9%), United Kingdom (25.6%) and it is followed by Taiwan (7.4%).
- Lesotho's imports in 2008 came primarily from SACU countries (74.8%), followed by Asia (21.1%).

Key features of the Lesotho tax system are as follows:

- A company tax rate of 25 percent;
- 10 percent tax on manufacturing profit;
- 10 percent tax on farming operations;
- A zero percent company tax on income generated from exporting manufactured goods outside of the Customs Union, a maximum individual tax rate of 35 percent and a;
- Value-Added Tax (VAT) rate of 14 percent;
- Double taxation agreements exist with South Africa, Mauritius, the United States of America, and the United Kingdom.

Lesotho is a member of the Southern African Customs Union (SACU), and as such, does not pay tariffs to export goods to other SACU members (Botswana, Namibia, South Africa, and Swaziland). With the exception of Botswana, these countries also form a common currency and exchange control area known as the Common Monetary Area (CMA). The South African rand can be used interchangeably with the

loti, the Lesotho currency. The loti is pegged to the South African rand. Lesotho is also a member of the Southern Africa Development Community (SADC). The SADC free trade area (FTA) became effective in August 2008, eliminating tariff and non-tariff barriers to trade between the SADC member states. Through this FTA, U.S. exporters and investors will gain easier access to the regional market. SADC also has signed an economic partnership agreement with the European Union, giving Lesotho duty and quota free access to the European market for its products.

## Market Challenges

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Lesotho is a small, landlocked, least developed country and its main market challenges are:

- Undiversified industrial base: economy growth and exports depend on a manufacturing sector that is nearly entirely driven by the export-oriented apparel industry. However, the industry could relocate easily should the trade privileges (such as those extended through the African Growth and Opportunity Act) erode. The challenge for Lesotho is to attract more Foreign Direct Investment (FDI) in order to diversify its economy and reduce its dependence on this single activity. The country must develop competitiveness in FDI in the manufacturing sector and improve access to international markets.
- The high prevalence rate of HIV/AIDS is affecting the labor force and other areas of business.
- Unemployment remains high, and the lack of job creation is a key structural problem.
- The physical and financial infrastructure is under-developed.

## Market Opportunities

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Investment and export opportunities exist in construction, hydroelectric power generation, aqua farming, diamond mining, manufacturing and tourism.

**Construction, hydroelectric power generation, aqua farming:** Lesotho is the source of all major rivers in neighboring South Africa. The second phase of the country's multi-billion-dollar Lesotho Highlands Water Project (LHWP), which was initiated in 1986, is expected to start in 2013, and is expected to roughly double the production of electricity for Lesotho and increase water transfer to South Africa. The project is designed to capture, store, and transfer water from the Orange River system and send it to South Africa's Free State and greater Pretoria-Johannesburg capital region. Opportunities exist for U.S. companies in construction. There are investment and export opportunities for aqua farming and tourism at the three dams that were built as part of the first phase of the LHWP.

<http://www.lhwp.org.ls/>

**Manufacturing:** Lesotho has taken advantage of the African Growth and Opportunity Act (AGOA) to become one of the largest exporters of garments to the U.S. from sub-Saharan Africa. Exports are estimated to have totaled \$374 million in 2008. Employment in the garment factories reached 45,000 in 2008, but has declined to around 36,000 due to the challenges brought about by the world economic meltdown. Lesotho's 19 garment factories are primarily owned by East Asian manufacturing conglomerates and they focus has been in the manufacturing of garments and textiles mainly. This means opportunities still exist for Lesotho to take maximum advantage of the AGOA provisions.

Various general incentives encourage investment in a broad range of industries:

- Free repatriation of profits;
- A non-repayable skills training grant which covers 50 percent of the wage bill during the initial training period for a newly established manufacturing company;
- Unimpeded access to foreign exchange; Guarantees for loan finance provided to clients of the Lesotho National Development Corporation (LNDC) by other financial institutions;
- Loans from the LNDC to projects that can demonstrate long-term viability;
- Equity participation (in selected cases) by the LNDC, in the absence of a private investor;
- Manufacturers receive a full rebate on imported raw materials or components for use solely in the processing or manufacturing of goods for the export market;
- Provision of serviced industrial plots, customized factories, and commercial and residential properties for lease;
- A free enterprise and free market economic system; and
- No withholding tax on dividends distributed by manufacturing companies to local or foreign shareholders.

Additionally, Lesotho has an Export Finance Scheme to enable exporters to better compete in world markets. The main components of this scheme are:

- Credit Guarantee Scheme - the exporters' bank applies for export finance on behalf of its client to obtain credit from the LNDC;
- Pre-shipment Credit Scheme - finances exporters' working capital needs on the basis of confirmed export orders;
- Post-shipment Credit Scheme - a loan which enables the exporter to start a new manufacturing cycle from the day of shipment until payment from the foreign buyer is received, allowing companies to offer favorable credit terms to their customers;
- Refinance Arrangement – grants Central Bank capital to commercial banks in order to provide exporters with concessionary export finance;
- Counter-Guarantee Arrangement - the Central Bank assumes 95 percent of the risk associated with guarantees issued by the LNDC.

<http://www.lndc.org.ls/Home.htm>

**Diamond mining:** Mining has been revived by the reopening of three commercial diamond mines, namely Lets'eng Diamonds, Liqhobong, and Kao diamond mines. Four diamond prospecting licenses have been issued for prospecting at different parts of the country. The Department of Mines and Geology and investors currently operating mines in Lesotho believe there is high potential for the mining industry with the possibility of more kimberlite pipes to be discovered.

<http://www.mines.gov.ls>

**Tourism:** Existing and prospective LHWP dams create a notable opportunity for water-based sporting and recreational activities. Another major unique feature of the country is altitude; Lesotho is the only country in the world which lies entirely above 1000m above sea level. In fact, the lowest point in Lesotho 1400m above sea level. Thus Lesotho is an

ideal location for high altitude sports training facility. The country is also under-supplied with accommodation facilities of appropriate standards particularly at key and strategic tourism nodes. Tourists from South Africa cross into Lesotho for the day, only to go back and sleepover in South Africa. There is therefore a pressing need for development of accommodation.

<http://www.ltdc.org.ls/investments.php>

While no investment code as such exists in Lesotho, incentives available to investors are set out in the legislation and investors' rights are protected by the nation's constitution. Lesotho is a signatory to the International Centre for Settlement of Investment Disputes (ICSID), which allows for foreign investors to gain international jurisdiction in legal disputes concerning investment in Lesotho (however, the U.S. and Lesotho have not signed a bilateral investment treaty guaranteeing access to international arbitration). Lesotho is also a member of the Multilateral Investment Guarantee Agency (MIGA).

### **Market Entry Strategy**

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New businesses must look for sales agents, distribution channels, pricing, and protection of intellectual property rights. Personal meetings with potential agents are encouraged and due diligence is recommended to ensure that partners are reliable. Market entry points include subsidiary projects or branch offices. Partnering with local firms greatly enhances prospects for success, particularly for securing government procurement contracts.

In addition to information in this Country Commercial Guide, the Commercial Service offices in Johannesburg offer many services designed to assist US investors in developing your market entry strategy and to facilitate your export experience in South Africa. For a detailed description of these services please visit:

<http://www.buyusa.gov/southafrica/en/servicestouscompanies.html>

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## **Chapter 2: Political and Economic Environment**

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/2831.htm>

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### **Using an Agent or Distributor**

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Foreign investors are represented in the market either through their own branch offices or through authorized agent distributors. Distributors provide technical support to end users and usually have contractual arrangements with their principals.

### **Establishing an Office**

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To open a foreign representative office in Lesotho, the firm must first establish itself as a legal entity by registering with proper authorities. These are the Ministry of Trade and Industry, the Ministry of Labor and Employment, and the Bureau of Immigration. The following documents must be submitted: 1) a letter of intent to do business in Lesotho; 2) a letter of appointment from the company's headquarters; 3) the resume of the company's representative; and 4) a work permit and proof of identity. These documents should be submitted to the following address:

Commissioner of Trade,  
Ministry of Trade and Industry,  
P.O. Box 747, Maseru -100  
Tel: (266) 2231 7454.

Representative offices for construction, engineering, or related consulting fields are required to register with the Ministry of Public Works.

### **Franchising**

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Franchising is one sector of the market that has not been explored to its maximum potential. Franchises successfully operate in the sectors of fast food, clothing, office cleaning, motor dealers and repairs, insurance companies, and fuel. Successful American franchises operating in Lesotho includes DHL, Federal Express, Coca-Cola, Kentucky Fried Chicken and Avis Car Rental.

### **Direct Marketing**

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Direct marketing is used in Lesotho for many kinds of products, from insurance to household equipment. Companies such as Avon, Amway, and Herbal Life have built large businesses by direct marketing through local distributors.

### **Joint Ventures/Licensing**

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A local joint venture partner is often encouraged, especially in government procurement/tenders. The Ministry of Trade and Industry operates as a “One Stop Shop” for investors and has recently gone through reforms that have reduced bureaucratic procedures and delays in applying for the necessary government permits and licenses for foreign investment in Lesotho. The Lesotho National Development Corporation also plays a facilitating role for foreign investors, providing information to prospective investors, arranging for site visits, and helping with permits and licenses as well as certain operational problems.

### **Selling to the Government**

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Foreign firms may fully participate in government procurement. Government rules and regulations do not give Lesotho nationals preference in bids for goods and services contracts. However the Ministry of Trade encourages joint ventures. Lesotho is not a signatory to the WTO Agreement on Government Procurement.

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Distribution channels are in the form of distribution and sales outlets throughout the country. Wholesalers distribute goods to the retailers through their chain outlets across the country. Wholesaling is profitable due to the low costs and high turnover involved. VAT at the rate of 14% is levied at every stage from producer to the consumer.

### **Selling Factors/Techniques**

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Purchasing power is significantly concentrated in the urban areas, while the majority of the population (80%) lives in rural areas. Household consumption expenditure in 2007 totaled \$1.2 million in 2007. Due to the influence of media, there is growing brand awareness which makes it important for American companies entering the Lesotho market to register their brand names with the Registrar General’s office.

### **Electronic Commerce**

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Electronic commerce is not widely used but the Ministry of Communications has developed proposals for it to be more widely developed.

### **Trade Promotion and Advertising**

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Advertising in local media and newspapers is recommended for introducing a new product. Television advertising has grown rapidly and outstrips newspaper advertising in cost.

### **Pricing**

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U.S. firms may conduct their own market research to obtain consumer preferences, cost of delivery, distribution, and advertising. Price is best developed with advice from local distributors who are well attuned to the competitive factors at play in the specific markets. A 14% VAT is levied on all goods and services.

### **Sales Service/Customer Support**

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There is no government policy that requires businesses to provide customer support after initial sale/service. However, there are a number of companies that provide full technical support for a period of up to a year.

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Several general principles are important for effective management of intellectual property (“IP”) rights in Lesotho. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Lesotho than in the U.S. Third, rights must be registered and enforced in Lesotho, under local laws. Your U.S. trademark and patent registrations will not protect you in Lesotho. There is no such thing as an “international copyright” that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Lesotho market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Lesotho. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Lesotho law. The U.S. Commercial Service can provide a list of local lawyers upon request.

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Lesotho require constant attention. Work with legal counsel familiar with Lesotho laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Lesotho or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)

- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)
- African Regional Intellectual Property Organization.

#### IP Resources

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: 1-866-999-HALT or register at [www.StopFakes.gov](http://www.StopFakes.gov)
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: 1-800-786-9199.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: 1-202-707-5959.
- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at [www.stopfakes.gov](http://www.stopfakes.gov)
- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: [http://www.abanet.org/intlaw/intlproj/iprprogram\\_consultation.html](http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html)
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: [www.StopFakes.gov](http://www.StopFakes.gov). This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Lesotho at:

Phone: 27 11 290 3120

Fax: 27 11 884 0538

Email: [johannesburg.office.box@N0SPAM.mail.doc.gov](mailto:johannesburg.office.box@N0SPAM.mail.doc.gov).

Lesotho's Industrial Property Order (1989), Copyright Order (1989), and Industrial Property Regulations (1989) are the bases for legal protection of Intellectual Property Rights. Patents (valid for 15 years from the date of application) have rarely been issued in Lesotho, but trademark protection is widely sought and granted. Lesotho is a member of World Intellectual Property Organization (WIPO) and the African Regional Intellectual Property Organization.

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The professional services available in Lesotho's market include: business consulting; car services and rentals; chamber of commerce; education and training; hotel and meeting services; legal services; office rentals; real estate; security insurance; and business travel.

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Ministry of Trade and Industry: <http://www.lesotho.gov.ls/trade>

Ministry of Finance and Economic Planning: <http://www.finance.gov.ls>

Central Bank of Lesotho: <http://www.centralbank.org.ls>

Lesotho Revenue Authority: <http://www.lra.org.ls>

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## Chapter 4: Leading Sectors for U.S. Export and Investment

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## **Manufacturing (APP, TXF, TXP) Leading Sector #1**

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Lesotho has taken advantage of the AGOA to become one of the largest exporters of garments to the U.S. from sub-Saharan Africa. Exports are estimated to have totaled US\$ 374 million in 2008 down from US\$ 443 million in 2007, and a peak of US\$ 456 million in 2004. Although the sector is currently going through a rough patch due to the slowdown in demand from the US and the changes in the SACU Duty Credit Scheme, it is still the leading sector in the country in exports. The sector was expected to contract by 10% in production at the end of 2009. Approximately three quarters of factories are owned by Taiwanese investors, with Hong Kong, Singapore, and South African investors representing the remainder.

### **Best Prospects/Services**

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Products and services with immediate need or potential in Lesotho include:

Fabric, canning, bottling, packaging, manufacturing equipment, consumer electronics, leather goods, toys, plastics, and sporting goods.

### **Opportunities**

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Opportunities still exist to diversify the manufacturing sector. Currently, the focus has been in the manufacturing of garments and textiles mainly. Duty-free access to the U.S. market under the combined AGOA / GSP program now stands at approximately 7,000 product tariff lines, some of these products such as parts of television apparatus, can be produced in Lesotho especially because there is a television sets assembly plant already in the country.

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AGOA: <http://www.agoa.gov/>

Ministry of Trade and Industry, Cooperatives and Marketing: <http://www.trade.gov.ls>

Lesotho National Development Corporation: <http://www.lndc.org.ls>

Southern Africa Global Competitiveness Hub: <http://www.satradehub.org/>

## Mining (MIN) Leading Sector #2

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Lesotho's export outlook changed significantly since 2004 with the opening of three commercial diamond mines and eight commercial industrial mineral quarries. At the end of 2008 the sector generated exports worth US\$188.8 million, positioning it second to the textile industry for the country's export base. Lesotho has some of the world's highest operating diamond mines; one is located at 3.1 km above sea level. Another unusual feature of the country's diamond mines is that they have the highest percentage of large diamonds, as defined by diamonds larger than 10 carats, which gives them the highest dollar ratio per carat more than most mines in the world. For example the world average is US\$70/carat, while one of the Lesotho mines averaged US\$1,000/carat, even during the recession.

Four mines are being prospected at different parts of the country and now that the price of rough diamonds have improved by at least 61% from the lows experienced at the weakest point of the market, the two mines that had suspended production at the end of 2008 are expect to resume and expand operations.

### Best Prospects/Services

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There is need for mining equipment, mining services, prospecting since there is potential for more kimberlite pipes that have not been prospected yet.

### Opportunities

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- There is economic mineral potential demonstrated by kimberlites and other basic intrusions at different part of the country. Minerals such as diamonds, semi-precious stones and clays have been previously worked but have not been explored to full potential.
- Coal and uranium mineralization have been detected, but no exploration has been done.
- Opportunities exist for commercial sand stone quarrying since it is done on a very small scale currently.

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Department of Mines and Geology: <http://www.mines.gov.ls>

## Tourism (TRA, HTL) Leading Sector #3

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Tourism has been identified as a key strategic sector for the growth and diversification of the economy and to contribute to an increase in GDP. To promote the tourism sector, the Lesotho government has created an autonomous body; the Lesotho Tourism Development Corporation (LTDC) which acts as a driver of the national tourism direction to position Lesotho as a preferred adventure tourist destination, and a champion for development of a strong and vibrant tourism sector which contributes to sustainable economic growth, job creation, poverty alleviation and protection of the natural and cultural heritage. LTDC is responsible for all operational functions of the tourism sector such as marketing, investment promotion, and grading of the tourism facilities to international standards. Lesotho government encourages new investments and joint-ventures in tourism and continues to play a major role in facilitating the development of tourism projects.

Lesotho's small but expanding tourism sector has a natural comparative advantage to compete both regionally and internationally and has shown consistent growth over the past several years. Lesotho's major unique feature is altitude; Lesotho is the only country in the world which lies entirely above 1000m above sea level. In fact, the lowest point in Lesotho 1400m above sea level. There has been a steady increase in the number of private-owned tourism enterprises, driven by the 2010 World Cup tournament which will be hosted by neighboring South Africa. This world event is expected to have significant potential impact to Lesotho's tourism sector.

### Best Prospects/Services

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Water based sports, hotels, lodges, restaurants, ski-resorts, equipment and related services, fly fishing facilities and services, 4 x 4 trail facilities and related services, parachuting and hot air ballooning facilities and services, transport, communication and logistics services

### Opportunities

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- Existing and prospective LHWP dams create a notable opportunity for water-based sporting and recreational activities.
- Lesotho is an ideal location for high altitude sports training facility.
- The country is also under-supplied with accommodation conference facilities of appropriate standards particularly at key and strategic tourism nodes. Tourists from South Africa cross into Lesotho for the day, only to go back and sleepover in South Africa. There is therefore a pressing need for development of accommodation, especially in the highlands.
- Boating excursions on dams and other water related recreational activities
- Development of heliports for panoramic view of the majestic maloti mountain range
- Health Retreats, Lesotho has abundance of water and hot springs
- Establishment of golf estates

- Development of traditional arts, crafts, pottery and wool/mohair products
- Pony trekking establishments, mountain biking, hiking and abseiling facilities
- Floriculture, agri-business and Horticulture
- Development of comfort and recreational facilities around major attractions
- Development of camping sites and camping equipment

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Lesotho Tourism Development Corporation: <http://www.ltdc.org.ls>

Lesotho Highlands Water Project: <http://www.lhwp.org.ls>

## Health Care (MED, HCS) Leading Sector #4

### Overview

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Lesotho is facing major challenges in stamping out health threats such as maternal health, HIV/AIDS, tuberculosis HIV/AIDS in order to improve the health of the productive workforce. With the support of MCC funding government has committed to make significant health sector improvements and strengthen the country's health care infrastructure. The activities include:

- Renovation of up to 150 health centers in order to establish a national stock of health centers that achieve a common standard
- Establishment of ART clinics in and improved management of up to 14 hospital out-patient departments
- Construction and equipping of a new central laboratory and training laboratory staff
- Construction of a dedicated, central facility for collecting and processing blood and provision of mobile blood collection and storage equipment
- Construction of dormitories and staff residences at Lesotho's National Health Training College

### Best Prospects/Services

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Construction services, medical equipment, movable medical clinic facilities, pharmaceutical industry

### Opportunities

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- Opportunities exist for pharmaceutical industries since the country imports all the medicine supplies after the government owned pharmaceutical company, which also exported to several countries in the region, was closed in 2007.
- Substantial market interest exist for high-tech, non-invasive medical equipment.
- Opportunities exist for companies that supply medical equipment spare parts, to support public hospitals and clinics refurbishment programs countrywide under the MCC funding.
- Ambulances, ambulance equipment and movable medical clinic facilities should be a future focus for suppliers of medical equipment, as the many rural areas in Lesotho provides no medical facilities for the local residents.

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Ministry of Health and Social Welfare: <http://www.health.gov.ls>

Millennium Challenge Corporation: <http://www.mcc.gov/mcc/countries/lesotho>

Millennium Challenge Account: <http://www.mca.org.ls>

## Construction (CON) Leading Sector #5

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The construction sector was one of the major drivers of the economy in the early 90s when the first phase of LHWP was done. It continues to be one of the leading sectors in the economy and there are several projects in the pipeline that will expand the sector even more. The first project is Lesotho Lowlands bulk water supply project which is aimed at improving water supply for industrial and domestic needs. Project activities include: construction of a bulk water conveyance system and establishment of a program management unit for the Metolong Dam construction, extension and rehabilitation of the urban and peri-urban water network as well as construction of pit latrines and water systems for 25,000 households. Metolong is going to be a 73 metre-high roller compacted concrete (RCC) dam with a 210 metre crest length and 53m m3 reservoir capacity. The project will consist of about 740 km of pipelines and will encompass four river intakes, four treatment plants, 48 pump stations and 132 reservoirs for eight different zones drawing between 6 Ml a day and 75 Ml a day. The benefits and developments that will be brought by the project include a 32km access road, 30 km feeder roads, 10km access road that links the dam with Ha Mohale main road, electricity distribution for 35 villages, a lodge and a commercial centre.

The second major construction work will be carried out in the second phase of LHWP which is expected to start in 2013, and is expected to roughly double the production of electricity for Lesotho and increase water transfer to South Africa. The project is designed to capture, store, and transfer water from the Orange River system and send it to South Africa's Free State and greater Pretoria-Johannesburg capital region.

The construction sector is also expected to thrive due to the construction activities in the MCC funded health sector reform project mentioned earlier in the report. These are: renovation of up to 138 health centers, construction of the central laboratory, central facility for collecting and processing blood, and construction of dormitories and staff residences at National Health Training College.

### **Best Prospects/Services**

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Construction services, construction equipment, construction material, consulting engineering and project management services

### **Opportunities**

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Opportunities are the for roads construction

### **Resources**

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Lesotho Highlands Water Project: <http://www.lhwp.org.ls>

Metolong Authority: <http://www.metolong.org.ls>

### **Agricultural Sectors (AGM, AGS, AGC, MFI)**

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Agriculture's share of Lesotho's GDP has been declining significantly; the 2007 share of 6.7% represented a decline of 68% over the previous 10 years. About 80% of the population depends on agriculture (subsistence farming) for their livelihood. Trade

policies in the agricultural sector are inadequate. Overall economic growth would benefit from improved agricultural techniques that would increase production in the sector. There are no government subsidies. However, the government assists farmers with crops and fertilizers during unfavorable crop seasons. The agricultural sector suffers from poor infrastructure, such as roads, telecommunications, and electricity in rural areas, which hampers growth in the sector. However, the government is set to embark on structural reforms in this sector to transform it into commercial agriculture. These will include introducing irrigation schemes, which will reduce dependence on rainfall.

Livestock production includes cattle, dairy, pigs, sheep, goats and broiler and egg industry. Value-added activities in the sector such as slaughtering, processing and preserving of meat, processing and preserving of fruit and vegetables, the processing of vegetable and animal oils and fats, dairy products, grain mill products, prepared animal feeds, bakery products, sugar refining, cocoa, chocolate and sugar confectionery amongst other food products would enhance the growth of this sector.

There are opportunities for aqua farming at the three dams that were completed as part of the first phase of the LHWP.

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## Chapter 5: Trade Regulations and Standards

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- [Trade Barriers](#)
- [Import Requirements and Documentation](#)
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- [Labeling and Marking Requirements](#)
- [Prohibited and Restricted Imports](#)
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- [Standards](#)
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### Import Tariffs

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Lesotho applies the SACU common External Tariff. Additional charges include clearing fees ranging from \$130 to \$175 per shipment. The country applies a permit system for all imports from non-SACU members. The system is applicable to all consignments imported by individual consumers and investors. Manufacturers are accorded preferential treatment, and granted blanket import rights for a period of 12 months with an additional grace period of three months.

### Trade Barriers

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The agricultural sector has witnessed some structural reforms involving removal of price subsidies and import controls on maize and wheat produce in favor of market-determined prices. The Agricultural Marketing Act continues to control the importation of bread, legumes, sugar, eggs, meat, dairy products, fruits, and vegetables. With the exception of eggs, sugar, and legumes, import restrictions include provisions allowing for small consumer purchases made outside the country. The Department of Marketing, under the Ministry of Trade and Industry, monitors the level of production of these commodities and issues import licenses in the event of short supply. National production has never met local demand. As a result, import permits are issued. Non-automatic licenses apply to imported used clothing.

### Import Requirements and Documentation

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As discussed above, importers are often required to obtain licenses and import permits from the Ministry of Trade and Industry and Ministry of Agriculture.

### Temporary Entry

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For products entering the country temporarily, importers need to fill out the normal importation form with Customs at the port of entry and indicate in the form that the good (s) is for temporary entry. They are required to make provisional payment, which is 14% of the value of the equipment. The provisional payment will be refunded to the importer when the equipment is taken out of the country.

### Prohibited and Restricted Imports

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As discussed above, there are import restrictions on bread, legumes, sugar, eggs, meat, dairy products, fruits, and vegetables and alcoholic beverages.

### Customs Regulations and Contact Information

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Customs regulations can be found on <http://www.lra.org.ls/home.php>

The contact information for Customs:

Commissioner Customs and Excise,  
Lesotho Revenue Authority,  
P.O. Box 1085, Maseru -100  
Tel: (266) 2231 3796/ 2231 0390

## Standards

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### Overview

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Lesotho does not have a national standards body. The standards and quality assurance section of the Ministry of Trade and Industry functions as a focal point for standards and quality assurance. No national standards have been developed to date. Industries in Lesotho have traditionally relied on the South African Bureau of Standards for voluntary standards facilities and quality and assurance schemes. Local exporters who rely on the traditional export market have developed their standards according to the technical quality requirements of importing countries and international standards. Lesotho participates in a regional program on Standardization, Quality, Accreditation and Metrology for SADC. The program aims to harmonize standards across all member states.

### Standards Organizations

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Lesotho is a member of the World Trade Organization

#### **NIST Notify U.S. Service**

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL:

<http://www.nist.gov/notifyus/>

### Trade Agreements

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Lesotho is a member of two regional trade agreements; Southern African Customs Union (SACU) and Southern African Development Community (SADC).

There are other arrangements outside the region which include the US under the African Growth and Opportunity Act (AGOA), SACU-EU Free Trade Agreement, and the Africa Caribbean and Pacific-European Union (ACP-EU) Cotonou Trade Agreement.

**Web Resources**

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Ministry of Trade and Industry: <http://www.trade.gov.ls/departments/default.php>

Southern African Customs Union: <http://www.Sacu.int>

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## Chapter 6: Investment Climate

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### Openness to Foreign Investment

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Lesotho is largely open to FDI and views FDI as a means to drive growth, improve international competitiveness, and obtain access to foreign markets. Virtually all business sectors are open to foreign investors. No government approval is required, and there are almost no restrictions on the form or extent of foreign investment. However, the country's FDI policy and legal framework are not developed well enough to enhance transparency and consistency. Lesotho has been more successful than most other least-developed countries in attracting FDI - predominantly export-oriented investment. Foreign investors in the apparel industry have created new jobs, particularly for females, and contributed to poverty reduction. Current business taxation regulations only partially address investor needs because they predominantly favor investment in manufacturing. The Government of Lesotho (GOL) is under pressure to revise relevant laws affecting investors in various sectors. The Lesotho National Development Corporation (LNDC), the main parastatal of the Government of Lesotho, which falls under the Ministry of Trade and Industry, Cooperatives and Marketing, is charged with implementation of the country's industrial development policies. LNDC provides assistance to foreign investors; publishes information on investment opportunities and services it offers to foreign investors. It also offers incentives, assistance with work permits, and logistical support for relocation. These can be viewed on its website: <http://www.lndc.org.ls>. Ninety percent of FDI flows into export-oriented manufacturing. FDI in manufacturing alone created 45,000 jobs in 2008; however, employment in the sector has declined to 36,000 jobs in 2009 due to the global economic meltdown. The single largest investment is believed to be around \$90 million in capital infrastructure by the Taiwanese Nien Hsing Group. Lesotho's export-oriented FDI gives it an advantage that needs to be built on. Foreign firms in Lesotho are highly concentrated in a very narrow range of products, such as knit apparel and jeans. Foreign affiliates have also invested small amounts in footwear, electrical products, electronics, television assembly, food processing, and other manufacturing products, such as plastics and umbrellas.

The telecommunications sector in Lesotho has also attracted FDI. The consortium of ESKOM Zimbabwe's Econet Wireless International and Mauritius Telecom holds a 70% share of Lesotho Telecom. Lesotho has a high penetration of telephony relative to per capita income. Such services have been extensively modernized and expanded in recent years. FDI in air transportation has not been successful. Lesotho Airways is now managed and handled by South African Airways for flights from Maseru to Johannesburg, and tourism has not been exploited, especially in activities aimed at protecting the natural environment and ecological attractions.

FDI in diamond mining has been revived by the reopening of three commercial diamond mines, namely Lets'eng Diamonds, Lihobong, and Kao diamond mines. Lets'eng Diamonds is a partnership between a South African-owned company and GOL. The mine employs about 1000 people, 90% of whom are Lesotho nationals. Lihobong and Kao diamond mines are partnerships between GOL and a European and Gibraltar mining company respectively. Operations at these mines were suspended at the end of 2008 due to falling rough diamond prices, but are expected to resume production in 2010. Four other mines, namely Mothae, Motse-Tsoeu, Lemphane and Kolo, are being prospected at different parts of the country. In its attempt to attract FDI to the mining industry, the GOL has offered a number of concessions, including VAT exemptions on inputs used during construction, and exemptions from withholding taxes on dividends and interest payments. In return, GOL is granted 8% of gross sales royalties and a share of dividends due to its equity shareholding in the three mines. GOL has 30% equity shareholding in Lets'eng Diamonds, 25% in the Lihobong diamond mine and 7% in the Kao Diamond Mine with provision for this to increase by 13% to 20% if GOL decides to have a larger stake in the company. Three laws: the Mines and Minerals Act (2005); the Precious Stones Order (1970); and the Mine Safety Act (1981), provide a regulatory framework for the mining industry.

Generally, the GOL continues to recognize the need for the Kingdom to be competitive in regional and international markets. To achieve this goal, the government has embarked on structural reforms that aim at improving the investment climate. Initiatives include private sector competitiveness programs under the Millennium Challenge Corporation and the World Bank, as well as modernizing customs processes through technical assistance from the USAID Southern Africa Global Competitiveness Hub. Specific activities include modernizing bank payment systems; introducing national ID's; creating credit facility for manufacturers; and modernizing land tenure systems. Customs processes will include minimizing the number of procedures required to clear consignments, both for export and import for clearance purposes.

The Ministry of Trade and Industry also introduced a "One Stop Shop" where all services required for the issuance of licenses, permits, imports, and exports clearances are housed under one roof. This has reduced the number of days to start a business from 92 days to 30 days. The Ministry is committed to developing this facility further to increase efficiency and expedite the procedures and processes needed to compete in the exporting business. Developments will extend to simplifying and expediting the issuance of work and residence permits to reduce the turnaround time.

Several international rankings and economic indicators for Lesotho:

Measure	Year	Index/Ranking
TI Corruption Index	2009	89 (out of 180)
Heritage Economic Freedom	2009	49.7 or (151 out of 179)
World Bank Doing Business	2010	130 (out of 183)
MCC Govnt Effectiveness	2009	81%
MCC Rule of Law	2009	90%
MCC Control of Corruption	2009	92%
MCC Fiscal Policy	2009	88%
MCC Trade Policy	2009	20%
MCC Regulatory Quality	2009	52%
MCC Business Start Up	2009	67%
MCC Land Rights Access	2009	55%
MCC Natural Resource Mgmt	2009	11%

### Conversion and Transfer Policies

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Lesotho has traditional foreign exchange controls but is also controlled by its membership in the Southern Africa Common Monetary Area (CMA). The CMA is comprised of Lesotho, Namibia, South Africa and Swaziland. Under the CMA, the South African rand is legal tender in Lesotho. Under CMA rules the loti should be exchanged at par with the rand and the rand/loti peg must be maintained. Lesotho must hold reserves in rand and other foreign currencies. There are no exchange controls between Lesotho and South Africa but CMA members agree to have exchange controls with third parties. Lesotho has partly liberalized the capital account. Controls on the current account were abolished in 1998 while limited controls on the capital account were adopted in 1993. Commercial banks have been delegated authority to undertake current account transactions and Lesotho acceded to Article VIII of the International Monetary Fund. However, dividends payments still require Central Bank approval. The Central Bank maintains direct power of approval over foreign exchange requirements for all capital account transactions including FDI, capital disinvestment, and contracting and servicing offshore debt. There has never been a case of blockage of such transfers, and shortages of foreign exchange that could lead to blockage are highly unlikely given net international reserves of \$1 billion in 2008, which is equivalent to eight months of import cover.

Lesotho is a member of the Southern African Common Policy on approval of foreign loans. However, policies on foreign borrowing are not strongly developed on the grounds that there is little foreign borrowing by resident businesses. The Central Bank and the Lesotho National Development Corporation (LNDC) monitor international capital inflows. There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency and at a legal market clearing rate. However, for loan repayments an investor needs to notify the bank at the beginning of an investment that the capital for that investment is a loan, they also need to disclose the terms of the loan. The current average delay period for remitting investment returns such as dividends, return of capital, interest and principal on private foreign debt, lease payments, royalties and management fees through normal, legal channels is two days, provided the investor has submitted all the necessary documentation related to the remittance.

## **Expropriation and Compensation**

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The constitution provides that the acquisition of private property by the state can only occur for specified public purposes. Further, the law provides for full and prompt compensation. Affected persons may appeal to the High Court as to whether the action is legal and compensation is adequate. The constitution is silent as to whether compensation may be paid abroad in the case of a non-resident. In one incident, Basotho land holders and foreign-owned mining companies filed a case against the Lesotho Water Highlands Project, alleging that the plaintiff companies held mineral lease rights located within the geographic area of land that was inundated as a result of the construction of Katse Dam. The Basotho farmers and mining companies claimed that the rights had been unlawfully expropriated by the GOL without any compensation. Ultimately, compensation was paid for the revocation of the land, and the court ruled that the International Bank of Reconstruction followed all the procedures required by law. It was decided that the provisions of the Mining Rights Act of 1967 were not violated.

## **Dispute Settlement**

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Foreign investors have full and equal recourse to the Lesotho courts for commercial and labor disputes. Courts are regarded as fair and impartial in cases involving foreign investors. Complex commercial cases may be heard by foreign judges. Privatization has introduced a number of investment agreements and these provide for international arbitration to settle disputes. Under the BIT with the United Kingdom, an investor may take a dispute with the government to international arbitration. The Germany BIT is silent on this issue. Lesotho is a member of the Multilateral Investment Guarantee Agency and has acceded to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

## **Performance Requirements and Incentives**

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There are no incentives for, and no performance requirements imposed specifically on, foreign investors as a condition of investment. However, there are a number of financial incentives available to manufacturing companies establishing themselves in Lesotho, such as unimpeded access to foreign exchange, export finance facility, and long-term loans.

The Lesotho's tax system also heavily favors investment in manufacturing. Corporate income generated from exporting manufactured goods outside the Southern African Customs Union (SACU); is taxed at 0%. There is a permanent maximum manufacturing tax rate of 10% on profits and there is no withholding tax on dividends paid to non-residents from manufacturing profits. There is also free repatriation of profits derived from manufacturing companies. Corporate income in all other sectors is taxed at 25% and there is a further 25% withholding tax on non-resident dividends. There is a credit facility for value added tax (VAT) on imports, which provides input tax credit upon importation and local purchasing of raw materials and capital goods for manufactures. Moreover, only industrial buildings and mining qualify for depreciation allowances for taxation. Buildings for services, tourism, farming, etc., are not depreciable. Infrastructure such as land improvements and site services also do not qualify. Lesotho has double taxation agreements with the Federal Republic of Germany, the Republic of South Africa, Mauritius and the United Kingdom.

## **Right to Private Ownership and Establishment**

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Lesotho has no competition law or overall competition regulator. Instead, under the industrial and trading licenses system a business can apply for protection from competition for up to 10 years.

### **Protection of Property Rights**

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Lesotho respects international intellectual property laws and is a member of the World Intellectual Property Organization and the African Intellectual Property Organization. Patents are rarely issued in Lesotho but trademark protection is often sought and granted. Intellectual property protection is regulated by the Industrial Property Order and the Copyright Act of 1989. The law protects patents, industrial designs, trademarks, and grant of copyright. The Law Office is responsible for enforcement of copyrights.

### **Transparency of Regulatory System**

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The judicial system is fair and competent in commercial matters and the government is willing to supplement the bench with foreign judges in specialized cases. Generally there is adequate regard in the courts for equal treatment of foreign investors who are in dispute with national parties or the government. Company law is based on the Companies Act of 1967, which provides reasonable standards for most purposes but is believed to be incomplete and complex. Technical improvements were incorporated in a 1998 draft of a new company law and were circulated to stakeholders but a new law has not been introduced. The regulatory framework for utilities is modern, but it is outdated for mining. Lesotho mining legislation gives authority to grant titles to the King and Principle Chiefs upon the recommendation of a Mining Board. Financial services regulation is also up to date but the industrial and trading license system is archaic. Industrial licensing long ago lost its original purpose of protecting start-up firms from competition. Trading licenses are required for 44 types of business. Some enterprises can require up to four licenses for one location. Lesotho has no competition law or overall competition regulator. Instead, under the industrial and trading licenses system a business can apply for protection from competition for up to 10 years.

Telecommunications: Lesotho's Telecommunications Authority is the sector's independent regulator. The authority sets conditions for entry of new competitive operators. Currently it allows Lesotho Telecom to maintain a monopoly for fixed-line and international services. Banking and other financial services: Banking regulations do not give power to the Central Bank to give directions as to interest rates, exchange rates, margins, or the spread of services offered. This is because of the currency peg with South Africa; hence, Lesotho has lost its leverage on monetary policy. This creates a low political risk environment for banking investment.

The Ministry of Trade and Industry also introduced a "One Stop Shop" where all services required for the issuance of licenses, permits and imports and exports clearances are housed under one roof. This has reduced the number of days to start a business from 92 days to 30 days. The Ministry is committed to developing this facility further to increase efficiency and expedite the procedures and processes needed to compete in the exporting business. Developments will extend to simplifying and expediting the issuance of work and residence permits to reduce the turnaround time.

### **Efficient Capital Markets and Portfolio Investment**

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Lesotho has a small financial system that is closely tied to South Africa through the Common Monetary Area. There are three foreign-owned banks: First National Bank, Ned Bank and Standard Lesotho Bank, which bought a 70% share in state-owned Lesotho Bank. According to a recent IMF report, the banks in Lesotho are well

capitalized and very liquid. However, credit provision is very low and this is going to be addressed through structural reforms under the private sector development component of the Millennium Challenge Corporation Compact which includes the establishment of a credit bureau. Industrial and commercial credit is provided by the Lesotho National Development Corporation (LNDC) and foreign investors are able to get credit on the local market. LNDC's mandate is to promote and facilitate foreign investment.

### **Competition from State Owned Enterprises**

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Lesotho privatized all state owned enterprises (SOEs) including telecommunications, banks, utilities, government transportation, and the radio airways following the adoption of the privatization Act of 1995. However, in 2004 the government established a government-owned bank which is mandated to access financial services to Basotho living in urban and rural areas of the country that do not have bank accounts. In 2008, the government also introduced state-owned buses in the public transportation sector. The SOEs senior management reports to an independent board of directors. They are required by law to publish an annual report and to submit their books to independent audit. Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit, and other business operations, such as licenses and supplies.

### **Corporate Social Responsibility**

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There is a general awareness of corporate social responsibility among both producers and consumers. Investors mostly give back to the society during the winter season and during the "Festive Season" around Christmas. Foreign and local enterprises tend to follow generally accepted corporate social responsibility (CRS) principles such as the OECD Guidelines for Multinational Enterprises. Firms who pursue CSR are viewed favorably by society.

### **Political Violence**

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Following the February 2007 general elections, there were civil disturbances that led to a few stay-aways and protest rallies by opposition parties in 2008 and 2009, but there has not been politically-motivated damage to projects. Political tensions between governing and opposition parties still exist but the national political atmosphere is generally calm.

### **Corruption**

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Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes

a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

**U.S. Foreign Corrupt Practices Act:** In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/docs/dojdocb.html>.

**Other Instruments:** It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to the Joint Bilateral Commission of Cooperation (JBCC) with South Africa which, among others, guide in enhancing good governance, security and stability, but generally all countries prohibit the bribery and solicitation of their public officials.

**OECD Antibribery Convention:** The OECD Antibribery Convention entered into force in February 1999. As of December 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. Lesotho is not yet a signatory of the OECD Convention on Combating Bribery.

**UN Convention:** The UN Anticorruption Convention entered into force on December 14, 2005, and there are 143 parties to it as of December 2009 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Lesotho signed and ratified the UN Anticorruption Convention in 2005.

**OAS Convention:** In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>) Lesotho is not a party to the OAS Convention.

**Council of Europe Criminal Law and Civil Law Conventions:** Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 46 member States (45 European countries and the United States). As of December 2009, the Criminal Law Convention has 42 parties and the Civil Law Convention has 34 (see [www.coe.int/greco](http://www.coe.int/greco).) Lesotho is not a party to the Council of Europe Conventions.

**Free Trade Agreements:** While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and transnationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>. [Insert information as to whether your country has an FTA with the United States: Lesotho has a free trade agreement (FTA) in place with the United States, the AGOA, was signed into law in 2000. Consult USTR Website for date: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.

**Local Laws:** U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial Service can provide assistance with navigating the host country’s legal system and obtaining a list of local legal counsel.

**Assistance for U.S. Businesses:** The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company’s overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at [www.trade.gov/cs](http://www.trade.gov/cs).

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at [tcc.export.gov/Report\\_a\\_Barrier/index.asp](http://tcc.export.gov/Report_a_Barrier/index.asp).

**Guidance on the U.S. FCPA:** The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the antibribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa). Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html). More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Public sector corruption, including bribery of public officials, remains a minor challenge for U.S. firms operating in Lesotho. Anti-corruption legislation was passed in 1999 and is being effectively implemented through an autonomous anti-corruption unit called the Directorate on Corruption and Economic Offences (DCEO). Lesotho signed and ratified the UN Anticorruption Convention in 2005 but it is not yet a signatory of the OECD Convention on Combating Bribery. A case from the early 1990s involving corrupt government officials and bribe-paying by foreign corporations engaged in constructing the multimillion-dollar, World Bank-funded Lesotho Highlands Water Project (LHWP) was concluded recently. The former top Lesotho diplomat assigned to the multibillion LHWP and his deputy have been sentenced to ten (with five years suspended for three years) and six years (with eighteen months suspended for three years) imprisonment respectively after they were found guilty of accepting bribes from an international construction company. International nongovernmental "watchdog" organizations operate in the country. Lesotho ranks 89 out of 180 countries in Transparency International's Corruption Perceptions Index for 2009.

### **Anti-Corruption Resources**

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.

- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/department/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html). See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009).
- TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp). The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQQXYJ6210>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm>.
- Additional country information related to corruption can be found in the U.S. State Department's annual Human Rights Report available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

## Bilateral Investment Agreements

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Lesotho has bilateral investment protection agreements or treaties with the United Kingdom and Germany which entered into force in 1981 and 1985 respectively. In 2004, Lesotho also signed a bilateral investment agreement with Switzerland, for the promotion and protection of investment. This agreement has not entered into force yet. The three agreements have already been posted in full on the UNCTAD website. Lesotho does not have a bilateral investment treaty or a bilateral taxation treaty with the U.S. and there are no taxation issues of concern to U.S. Investors.

### **OPIC and Other Investment Insurance Programs**

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OPIC insured one American-owned company: Seaboard Corporation's joint venture with Lesotho Flour Mills. Seaboard started operations in 1998 and currently employs about 300 people. OPIC can encourage United States investors to consider exploring new investment opportunities in other sectors. The Mission does not have a bilateral agreement providing for OPIC program and does not budget for OPIC claims in its official budget. Lesotho is a member of the Multilateral Investment Guarantee Agency (MIGA). In 2000, MIGA issued guarantees to Imperial Group (Proprietary) Limited of South Africa for its investment in the partial privatization (60 %) of the government's Plant and Vehicle Pool Service Unit.

### **Labor**

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Lesotho's Labor Code Order of 1992 regulates terms of employment and conditions for worker health, safety, and welfare. It was amended in 2004 to include HIV/AIDS policies in the workplace. Union organization is permitted. There is a full-time and independent Directorate of Industrial Dispute Prevention and Resolution. Statutory minimum wages are fixed annually by the Ministry of Labor and Employment with recommendations from a tripartite Wages Advisory Board. Minimum wage setting is sensitive to the textile and garment industry's need to maintain competitiveness. In 2001, Lesotho ratified both the ILO Convention 182 on the Prohibition and Elimination of the Worst Forms of Child Labor and Convention 138 on the Minimum Age of Employment. The Labor Code Order of 1992 and its subsequent amendments are the principal laws governing terms and conditions of employment in Lesotho. The Labor Code Order of 1992 requires every non-citizen employee or self-employed person to have a work permit. A work permit is issued by the Labor Commissioner, who must be satisfied that no qualified Lesotho citizen is available for the position. The statutory maximum duration of a work permit is two years.

### **Foreign-Trade Zones/Free Ports**

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There are no free trade zones in Lesotho.

### **Foreign Direct Investment Statistics**

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The latest Private Capital Flows (PCF) Survey report is for 2007.

Lesotho's FDI statistics for 2007 are estimated as follows:

FDI Stock

(in Million Maloti) 700.50

(in Million USD) 94.66

Stock as % of GDP 6.02

GDP in Million USD 1,571.72 (2007 GDP at current prices)

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2007 Direct Investment Capital Flows by Industry Sector

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	In millions of USD	% of GDP
Mining and Quarrying	24.94	1.59
Manufacturing	34.78	2.21
Building and Construction	0.32	0.02
Wholesale and Retail Trade	4.93	0.31
Transport and Communications	26.38	1.68
Finance and Insurance	2.69	0.17
Real Estate and Business	0.62	0.04
Total Capital Flows	94.66	6.02

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2007 Direct Investment Capital Flows by Country of Origin

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	In millions of USD	% of GDP
South Africa	38.72	2.46
Taiwan	7.06	0.45
Netherlands	2.90	0.18
China	0.64	0.04
United States	15.32	0.97
Switzerland	0.45	0.03
Belgium	5.26	0.33
United Kingdom	24.30	1.55
Total Capital Flows	94.66	6.02

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2007 Direct Investment Abroad

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Stock in Million Maloti	188.05
Stock in Million USD	25.41
Percentage of GDP	1.62

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2007 Direct Investment Abroad by Industry Sector

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Sector	in M Maloti	in M USD	%GDP
Manufacturing	166.93	22.56	1.44
Wholesale & Retail	0.37	0.05	0.00
Transport & Comm.	2.57	0.35	0.02
Finance & Insurance	0.88	0.12	0.01
Total Claims Abroad	188.05	25.41	1.62

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2007 Direct Investment Abroad by Country of Destination

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Country	in M Maloti	in M USD	% GDP
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South Africa	47.43	6.41	0.41
Taiwan	99.71	13.47	0.86
Netherlands	39.81	5.38	0.34
Switzerland	1.09	0.15	0.01
Total Claims Abroad	188.05	25.41	1.62

Sources: FDI: Central Bank of Lesotho; Report on Private Capital Flows Survey 2007  
GDP: Bureau of Statistics; 1998-2008 National Accounts Publications  
Exchange rate period: 2007 average 1USD = M 7.40

**Web Resources**

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Central Bank of Lesotho: <http://www.centralbank.org.ls>

Bureau of Statistics: <http://www.bos.gov.ls>

Investment Policy Review Lesotho: <http://www.unctad.org>

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## Chapter 7: Trade and Project Financing

- [How Do I Get Paid \(Methods of Payment\)](#)
- [How Does the Banking System Operate](#)
- [Foreign-Exchange Controls](#)
- [U.S. Banks and Local Correspondent Banks](#)
- [Project Financing](#)
- [Web Resources](#)

### **How Do I Get Paid (Methods of Payment)**

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Lesotho is a predominantly a cash economy. But recently with the spread of internet especially in the capital, electronic funds transfer (EFT) is becoming common.

### **How Does the Banking System Operate**

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The banking system is essentially foreign-owned by South African Banks: Standard Bank, NedBank, and First National Bank. There is one state-owned bank which is mandated to access financial services to Basotho living in urban and rural areas of the country that do not have bank accounts. The banks are supervised by the Central Bank of Lesotho through the Financial Institution Act of 1999. For individuals, local currency accounts can be opened with any bank with an identity document and proof of residential address. For businesses, there is a need for an application letter with the specimen signatures of the signatories to the account. Banking regulations do not give power to the central bank to give directions as to interest rates, exchange rates margins, or the spread of services offered and the branch network. This is due to the currency peg with South Africa, which means that Lesotho has lost its leverage in the area of monetary policy. This creates a low political risk environment for banking investment. There are no credit rating agencies in the country, but Fitch Credit Rating has been conducting ratings for Lesotho for the past six years. Fitch Credit Ratings for 2008 has affirmed Lesotho's short-term currency Issuer Default Rating ("IDR") at "B" and its long-term currency IDR at "BB-."

### **Foreign-Exchange Controls**

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Lesotho partially liberalized the capital account. Controls on current account were abolished in 1993, while limited controls on the capital account were adopted in 2003.

### **U.S. Banks and Local Correspondent Banks**

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No U.S. banks are operating in Lesotho.

### **Project Financing**

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Principal multilateral financial institutions, such as the World Bank, the African Development Bank, the European Union, the Kuwait Fund, the Saudi Fund, and BADEA, all lend to Lesotho for infrastructural development. In addition, in 2007, the country signed a USD 362.5 million compact with the USG-financed Millennium Challenge Corporation (MCC) for investment in the water, health, and private sectors.

### **Web Resources**

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: [http://www.exim.gov/tools/country/country\\_limits.html](http://www.exim.gov/tools/country/country_limits.html)

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

Millennium Challenge Corporation: <http://www.mcc.gov/countries/lesotho/index.php>

Millennium Challenge Account – Lesotho: <http://www.mca.org.ls/home/>

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## Chapter 8: Business Travel

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- [Travel Advisory](#)
- [Visa Requirements](#)
- [Telecommunications](#)
- [Postal Services](#)
- [Transportation](#)
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- [Local Time, Business Hours and Holidays](#)
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### **Business Customs**

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Breakfast meetings are rare, lunches tend to be one hour long, and business meetings are normally held in offices rather than over meals. Business attire is similar to the U.S. It is important to reconfirm appointments the day of the meeting. There are often delays and many meetings start or run late. It is becoming more common that business cards are given to counterparts during the meetings.

The currency unit is the loti and the average exchange rate for the period is 1USD=7.5 Maloti.

Lesotho uses the metric system for weight and measurements.

### **Travel Advisory**

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All US citizens traveling to Lesotho are urged to check the Embassy's website at <http://maseru.usembassy.gov> for the latest travel information.

### **Visa Requirements**

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A passport is required, but no visa for U.S. citizens is needed for visits of 180 days or less. Vaccination for yellow fever is a common requirement and travelers should carry their international vaccination cards with them. For more information concerning entry requirements, travelers may contact the Embassy of the Kingdom of Lesotho, 2511 Massachusetts Avenue NW, Washington, DC 20008, telephone (202) 797-5533. Visit the Embassy of Lesotho's web site at <http://www.lesothoemb-usa.gov.ls/> for the most current visa information.

Basotho traveling to the United States need visas. All prospective visitors, except for diplomats, must personally present themselves for an interview at the U.S. Embassy in Maseru.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security options are handled via an interagency process. Visa applicants should go to the following links.

State Department Visa Website: <http://travel.state.gov/visa/index.html>

United States Visas.gov: <http://www.unitedstatesvisas.gov/>

United States Embassy Maseru Website: <http://maseru.usembassy.gov>

## **Telecommunications**

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The telephone system in Lesotho has been extensively modernized and expanded in recent years. A satellite earth station in the capital, installed in 1984, is connected to the International Telephone Exchange in Maseru, and provides direct dialing locally and overseas. However, Lesotho has a relatively low teledensity of 29%. 3.3 per 100 people have fixed lines, and 58% of these subscribers reside in the capital, Maseru. There are only two cellular phone networks: Vodacom Lesotho (VCL Communications) and Econet Ezi Cel Lesotho. VCL has approximately 518,000 subscribers and covers most of the densely populated urban areas. Econet covers all major population centers, including the highlands, and has about 100,000 subscribers. The use of modern technology, such as Internet connectivity, has vastly improved the quality of national and international telecommunication services. The Lesotho Communications Authority (LCA), which is an independent regulatory authority, estimated that 5.1 percent of inhabitants used the Internet during the year.

## **Postal Services**

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Lesotho's postal service has an extensive network around the country, including 40 post offices and more than 80 agencies. Post offices offer the normal postal services and money orders and together with the Lesotho PostBank (LPB), they are strategic partners in execution of the government strategy to access financial services to the un-banked Basotho through the forty seven post offices spread throughout the country. The post offices provide space which the LPB utilizes to serve the un-banked Basotho.

## **Transportation**

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Lesotho has nearly 6,000 kilometers of unpaved and modern all-weather roads. There is a short rail line (freight) linking Maseru with South Africa. Moshoeshoe International Airport is located in Maseru, providing regular flights to/from South Africa.

## **Language**

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Southern Sotho and English are the official languages of Lesotho. Meetings with foreigners are generally conducted in English.

## **Health**

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Medical facilities in Lesotho although still limited, have improved in the recent years. With the MCC funding under the Health Sector Project activities which include: (a) renovation of up to 150 health centers; (b) establishment of ART clinics in and improved management of up to 14 hospital out-patient departments ("OPDs"); (c) construction and equipping of a new central laboratory the medical facilities are expected to improve significantly. Good medical services are available in Bloemfontein, South Africa, 90 miles west of Maseru. There is no reliable ambulance service in Lesotho.

Many medicines are unavailable at facilities in Lesotho; travelers should carry with them an adequate supply of needed medicines and/or prescription drugs, along with copies of prescriptions. Lesotho has a very high HIV/AIDS prevalence rate, currently estimated at 23% of the population. Some HIV/AIDS entry restrictions exist for visitors to and foreign residents of Lesotho. Lesotho border guards have the discretion to deny entry to visitors with HIV/AIDS.

## **Local Time, Business Hours, and Holidays**

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Businesses are open Monday through Friday, generally from 8:00am until 5:00pm. Most businesses close for lunch between 1p.m. and 2 p.m. The time difference between Lesotho and the Eastern Time Zone of the United States is 6-7 hours.

Public Holidays for 2010 include the following:

1 January, New Year's Day;  
11 March, Moshoeshoe Day;  
2 April, Good Friday;  
5 April, Easter Monday;  
1 May, Workers' Day;  
13 May, Ascension;  
25 May, Africa Day/ Heroes' Day;  
17 July, King Letsie III's Birthday;  
4 October, Independence Day;  
25-26 December, Christmas.

## **Temporary Entry of Materials and Personal Belongings**

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For requirements on temporary entry of materials and personal belongings, please check the customs requirements at the Lesotho Revenue Authority at: <http://www.lra.org.ls/home.php>

## **Web Resources**

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Department of State Country Specific Travel Information: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_949.html#entry\\_requirements](http://travel.state.gov/travel/cis_pa_tw/cis/cis_949.html#entry_requirements)

Lesotho Communications Authority: <http://www.lca.org.ls>

Econet Telecom Lesotho: <http://www.telecom.co.ls>

Vodacom Lesotho: <http://www.vodacom.co.ls>

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## Chapter 9: Contacts, Market Research, and Trade Events

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- [Market Research](#)
- [Trade Events](#)

### **Contacts**

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The Government of Lesotho's primary contact for market research is the Director of the Marketing Division in Lesotho's Ministry of Trade and Industry (Tel: +266-22-31-7454).

### **Market Research**

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To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/marketresearch.html> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, but free of charge.

### **Trade Events**

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Please click on the link below for information on upcoming trade events.

<http://www.export.gov/tradeevents.html>

<http://www.buyusa.gov/southafrica/en/tradeshowsandevents.html>

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## Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers

For more information on the services the U.S. Commercial Service offers U.S. businesses, please click on the link below.

<http://www.buyusa.gov/southafrica/en/servicestouscompanies.html>

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website:

<http://www.export.gov>

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.