# ANNEX 2 - LESOTHO

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# 1 ECONOMIC ENVIRONMENT

## 1.1 Main Features of the Economy

1.1. The Kingdom of Lesotho is a least developed country (LDC) with a GDP per capita of US$1,124 and a total GDP of US$2,148 million in 2013 (Table 1.1). Lesotho is a landlocked country entirely surrounded by South Africa. It has a population of about 1.9 million, of which about 57% lives below the national poverty line.[1] The majority of the population is concentrated in rural areas and lacks basic infrastructure such as roads, electricity, and potable water. Lesotho's natural resources are mainly water and diamonds.

1.2. Lesotho's economy continues to rely mainly on agriculture and the textile and clothing industry. Agriculture is the backbone of the rural economy and the country's main employer. In 2013, it accounted for 7.9% of Lesotho's GDP, behind the construction sector (9.6%). It was followed by textiles and clothing (7.7%) and mining and quarrying (6%). Textiles and clothing constitute Lesotho's main manufacture and exporting industry, accounting for about 60% of its total exports in 2012 (Section 1.3).

1.3. Statutorily, the Central Bank of Lesotho (CBL) continues to be responsible for formulating, implementing and supervising monetary and foreign exchange policies. Other functions include ensuring the stability of the financial sector and regulating and supervising financial and non-financial institutions.[2] However, since Lesotho is a member of the SACU Common Monetary Area (CMA) with Namibia, South Africa and Swaziland (see Main Report), its monetary policy is delegated to the South African Central Bank, and its national currency, the loti, is pegged at par to the South African rand, which is accepted in Lesotho. Therefore, Lesotho remains constrained in the use of monetary policy to undertake macroeconomic adjustments as it must keep an adequate level of international reserves to maintain the peg with the rand. In this context, textiles and clothing exports, as well as remittances, play an important role as they are a significant source of foreign exchange.

### Table 1.1 Selected macroeconomic indicators, 2008-14

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| **Basic indicators** | | | | | | | |
| GDP at current prices (M million) | 13,471 | 14,502 | 16,015 | 18,322 | 19,573 | 20,736 | .. |
| GDP at current prices (US$ million) | 1,631 | 1,711 | 2,187 | 2,523 | 2,384 | 2,148 | .. |
| GDP growth rate (%, at 2004 constant prices) | 5.7 | 3.4 | 7.9 | 4.0 | 5.0 | 4.6 | .. |
| GDP per capita at current prices (US$) | 868 | 907 | 1,156 | 1,329 | 1,252 | 1,124 | .. |
| Population (million) | 1.9 | 1.9 | 1.9 | 1.9 | 1.9 | 1.9 | .. |
| Unemployment, total (% of total labour force) | 25.3 | 26.0 | 24.7 | 26.2 | 24.1 | 24.7 | .. |
| Inflation (CPI, % change) | 10.7 | 7.4 | 3.6 | 5.0 | 6.1 | 4.9 | 5.3 |
| **GDP by expenditure at constant 2004 prices (annual % change)** | | | | | | | |
| GDP at purchasers' prices | 5.7 | 3.4 | 7.9 | 4.0 | 5.0 | 4.6 | .. |
| Private consumption expenditure | 4.5 | 3.6 | 8.3 | 7.5 | 1.4 | 0.3 | .. |
| Government consumption expenditure | 8.9 | -1.2 | 2.9 | 0.0 | 12.3 | -0.9 | .. |
| Gross fixed capital formation | 40.5 | -8.7 | 14.8 | 1.2 | 21.2 | 16.9 | .. |
| Changes in inventories[a] | -2.5 | 0.7 | 2.5 | -6.2 | 0.0 | 1.3 | .. |
| Gross domestic expenditure | 8.8 | 0.8 | 9.7 | 1.4 | 6.7 | 4.0 | .. |
| Exports of goods and services | 10.5 | -4.3 | 7.5 | 3.1 | -1.2 | -4.7 | .. |
| Imports of goods and services | 11.5 | -2.6 | 7.8 | 2.2 | 2.5 | 1.4 | .. |
| **GDP by kind of economic activity at 2004 constant basic prices** | | | | | | | |
| Agriculture, forestry and fishing | 8.7 | 8.0 | 8.2 | 8.6 | 7.1 | 7.9 | .. |
| Mining and quarrying | 4.3 | 5.1 | 4.9 | 5.6 | 6.6 | 6.0 | .. |
| Manufacturing | 18.8 | 17.1 | 18.1 | 15.4 | 14.2 | 12.2 | .. |
| Food products and beverages | 3.1 | 3.0 | 3.0 | 3.1 | 3.0 | 2.7 | .. |

[1] UNDP data (2013).
[2] Article 6 of the Central Bank of Lesotho Act 2000.

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| Textiles, clothing, footwear and leather | 12.7 | 11.1 | 11.9 | 10.3 | 9.3 | 7.7 | .. |
| Other manufacturing | 3.0 | 3.0 | 3.1 | 1.9 | 1.9 | 1.8 | .. |
| Electricity and water | 4.9 | 5.0 | 4.7 | 4.6 | 4.5 | 4.4 | .. |
| Construction | 5.7 | 5.8 | 6.9 | 6.9 | 8.2 | 9.6 | .. |
| Services | 57.6 | 59.0 | 57.2 | 58.8 | 59.4 | 59.9 | .. |
| Wholesale and retail trade, repairs | 7.8 | 7.6 | 7.6 | 7.9 | 8.4 | 8.9 | .. |
| Hotels and restaurants | 1.4 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | .. |
| Transport, and communication | 7.9 | 8.6 | 8.7 | 9.1 | 9.2 | 9.2 | .. |
| Transport and storage | 3.2 | 3.2 | 3.1 | 3.1 | 3.1 | 3.2 | .. |
| Post and telecommunications | 4.7 | 5.4 | 5.6 | 6.0 | 6.0 | 6.1 | .. |
| Financial intermediation | 5.6 | 6.2 | 6.6 | 7.2 | 7.4 | 8.2 | .. |
| Real estate and business services | 14.6 | 15.0 | 13.6 | 13.6 | 13.5 | 13.2 | .. |
| Public administration | 11.5 | 11.0 | 10.6 | 10.4 | 10.2 | 9.4 | .. |
| Education | 7.4 | 8.0 | 7.8 | 7.7 | 7.3 | 7.0 | .. |
| Health and social work | 1.8 | 1.9 | 1.8 | 2.7 | 3.2 | 3.7 | .. |
| Community, social and personal services | 1.2 | 1.2 | 1.1 | 1.1 | 1.1 | 1.1 | .. |
| Financial services indirectly measured | -1.6 | -1.9 | -2.0 | -2.2 | -2.1 | -2.1 | .. |
| **External sector** | | | | | | | |
| M/US$ (annual average) | 8.3 | 8.5 | 7.3 | 7.3 | 8.2 | 9.7 | 10.9 |
| Nominal effective exchange rate (Index, 2010=100)[b] | 89.6 | 89.2 | 100.0 | 98.8 | 89.8 | 78.1 | 70.8 |
| Real effective exchange rate (Index, 2010=100)[b] | 82.5 | 87.8 | 100.0 | 99.9 | 94.4 | 84.7 | 79.1 |
| Current account (% of GDP) | 20.5 | 3.6 | -7.5 | -6.0 | -9.9 | -2.0 | .. |
| Total reserves (includes gold, current US$ billion) | 1.0 | 1.2 | 1.1 | 0.9 | 1.0 | 1.1 | .. |
| Total reserves in months of imports | 5.7 | 6.6 | 4.7 | 3.6 | 4.4 | 5.4 | .. |
| **Government budgetary operations (% of GDP)[c]** | | | | | | | |
| Revenue | 62.2 | 64.7 | 55.0 | 50.3 | 64.5 | 62.9 | .. |
| of which: | | | | | | | |
| tax revenue | 19.7 | 20.7 | 20.6 | 21.9 | 23.9 | 22.9 | .. |
| grants | 3.4 | 4.1 | 5.5 | 8.8 | 8.7 | 6.2 | .. |
| SACU | 34.4 | 33.9 | 20.7 | 14.2 | 26.4 | 29.1 | .. |
| Expense | -47.1 | -52.5 | -48.6 | -45.6 | -45.6 | -45.2 | .. |
| Net cash inflow from operating activities | 15.1 | 12.1 | 6.4 | 4.7 | 18.9 | 17.7 | .. |
| Transactions in nonfinancial assets | -8.8 | -11.5 | -12.7 | -10.5 | -18.5 | -14.4 | .. |
| Cash deficit (-) / surplus (+) | 6.4 | 0.7 | -6.3 | -5.7 | 0.4 | 3.4 | .. |
| **Debt indicators** | | | | | | | |
| Total debt as a % of GDP | 55.0 | 40.1 | 37.1 | 36.9 | 40.6 | 40.1 | .. |
| External debt as a % of GDP | 49.9 | 36.1 | 31.4 | 31.3 | 34.7 | 35.1 | .. |
| Domestic debt as a % of GDP | 5.1 | 4.0 | 5.7 | 5.6 | 5.9 | 5.0 | .. |
| External debt as a % of total debt | 90.7 | 90.0 | 84.6 | 84.9 | 85.5 | 87.6 | .. |
| Domestic debt as a % of total debt | 9.3 | 10.0 | 15.4 | 15.1 | 14.5 | 12.4 | .. |
| Debt service ratio[d] | 5.3 | 4.7 | 1.8 | 2.9 | 2.3 | 5.7 | .. |

.. Not available.

a Changes in inventories as percentages of GDP of the previous year.
b An increase represents an appreciation of the national currency.
c Estimate for 2012 figures and CBL projection for 2013 figures.
d Ratio of debt service to exports of goods and non-factor services.

Source: Central Bank of Lesotho (2014), *Annual Report 2013*, March; Lesotho Bureau of Statistics online information. Viewed at: http://www.bos.gov.ls/; IMF online information, "International Financial Statistics". Viewed at: http://elibrary-data.imf.org/DataExplorer.aspx; and World Bank's World Development Indicator database. Viewed at: http://databank.worldbank.org/data/views/variableselection/selectvariables.aspx?source=world-development-indicators.

1.4. As a member of the CMA, Lesotho also allows unrestricted movement of capital and convertibility of transactions only with Namibia, South Africa and Swaziland. Under the CMA, signatory countries can liberalize these restrictions, but must do so at a harmonized pace, i.e. they cannot do it faster than South Africa. Overall, CMA membership has imposed on Lesotho certain monetary and indirectly fiscal disciplines that have helped it to contain inflation.

1.5. Lesotho continues to be highly dependent on SACU revenues, which accounted on average for around 43% of its total government revenues during 2008-14.

## 1.2 Recent Economic Developments

1.6. During the period under review, Lesotho's economic performance remained moderate. The economy grew on average by 5.1% per year (period 2008-13[3]) despite being hit by severe floods in 2011 which damaged crops and reduced agricultural production. In addition, following the global financial crisis of 2008-09, clothing exports to the U.S. fell and so did exports to the SACU region, especially South Africa, which led to a sharp decline in the SACU revenue, Lesotho's main source of public revenue. At the same time, there was an increase in construction and mining activities, reflecting new mine investments, which contributed to maintaining positive growth rates. In addition, the AGOA third-country fabric provision was renewed in 2012 for three more years until September 2015, which temporarily restored confidence among U.S. retailers and caused U.S. orders to recover. Moreover, Lesotho's exports benefited from the depreciation of the loti against the U.S. dollar, which helped to improve their performance.

1.7. The clothing sector continues to face a number of challenges including increased competition from abroad. Moreover, during the period under review, the sector was affected by the uncertainty related to the renewal of the AGOA framework and its third-country fabric rule, which were to expire in September 2015. In June 2015 both were renewed for ten more years until September 2025, thus providing predictability once more for exporters to plan their activities. This renewal was critical, given the importance of the clothing industry in Lesotho's total exports and their dependence on the U.S. market.

1.8. During the period reviewed, Lesotho's fiscal position deteriorated and moved from a surplus to a deficit in 2010 and 2011, but turned again into a surplus in the following years. Indeed, Lesotho experienced an important fiscal shock in 2010 and 2011 with the decline in SACU revenue and also had to increase its fiscal expenses in 2011-12 to rehabilitate the infrastructure affected by floods. However, during this period, increased public revenue helped to contain any significant fiscal deterioration and to again achieve a fiscal surplus. The revenue increase was mainly driven by an improvement in tax collection which reached M 4.7 billion in 2013, up from M 2.6 billion in 2008.[4] Non-tax revenues also increased, including the water royalties from the Lesotho Highlands Water Project. In addition, SACU receipts recovered after 2012 and reached M 6 billion in 2013, compared to M 2.6 billion in 2011 - its lowest level during the period - and to M 4.6 billion in 2008. According to the IMF, Lesotho remains at moderate risk of debt distress with a ratio total debt to GDP of 40.1% in 2013 (Table 1.1).

1.9. Overall, during the period, the authorities committed to increase their efforts to achieve greater fiscal consolidation through enhanced tax collection and improved spending prioritization. Nonetheless, Lesotho still faces many challenges including a high wage bill, narrowed tax base and high dependence on SACU revenue.

1.10. Although generally expansionary during this period, Lesotho's monetary policy remained guided by the need to maintain the parity of the loti with the South African rand. Inflation fell to 5.3% in 2014, compared to 10.6% in 2008. This trend was however not regular over the period as inflation levels exhibited alternating periods of declines (2008-10; 2013) and modest increases (2011-12), which follow to a large extent South Africa's trends. This is not surprising, given Lesotho's membership of the CMA and the strong trade linkages between the two countries. In addition, the increased inflation in 2011-12 reflected higher fuel and food prices, which resulted from the agricultural shortages that followed the 2011 floods.

1.11. Lesotho's external current account has been in deficit since 2010 (Table 1.2) mainly reflecting the decline in SACU receipts and an increase in the deficit of the trade account. The deficit was the largest in 2012 but was significantly reduced in 2013. The deficit in these years was largely the consequence of the 2008-09 global financial crisis. SACU revenue, which is Lesotho's

[3] Latest year available.
[4] Central Bank of Lesotho (2014).

most important source of income, declined significantly due to a fall in trade in the SACU area, in particular South Africa. In addition, exports stagnated due to a decline in demand from Lesotho's major trading partners, in particular the U.S. At the same time, imports increased steadily during 2009-2012, thus widening the trade deficit and putting further pressure on foreign exchange reserves, which are needed to support the parity of the loti with the rand. This rise in imports reflects mainly the increase in food imports and reconstruction materials required following the floods.

1.12. In recent years, remittances from Lesotho's mineworkers (another important component of its current account) in South Africa have declined.

### Table 1.2 Balance of payments, 2008-13

(US$ million)

| | 2008 | 2009 | 2010 | 2011 | 2012[a] | 2013[b] |
|---|---|---|---|---|---|---|
| **1. Current account** | **335.0** | **61.9** | **-163.9** | **-151.0** | **-237.0** | **-41.9** |
| 1.1. Goods | -643.0 | -839.5 | -1,093.1 | -981.2 | -1,273.7 | -1,029.5 |
| a) exports | 871.1 | 722.8 | 873.2 | 1,164.7 | 974.3 | 847.4 |
| b) imports | -1,514.1 | -1,562.3 | -1,966.3 | -2,145.9 | -2,248.0 | -1,876.9 |
| 1.2. Services | -350.2 | -383.0 | -398.6 | -419.8 | -365.5 | -303.3 |
| 1.3. Income | 642.0 | 567.1 | 659.3 | 636.8 | 533.3 | 463.8 |
| a) labour income | 563.2 | 535.3 | 603.4 | 640.1 | 547.6 | 456.8 |
| b) other | 78.8 | 31.8 | 56.0 | -3.3 | -14.3 | 7.0 |
| 1.4. Current transfers | 686.2 | 717.4 | 668.5 | 613.2 | 868.9 | 827.1 |
| a) Government, net | 565.3 | 586.1 | 507.1 | 435.1 | 704.7 | 680.6 |
| SACU receipts | 550.6 | 569.7 | 441.3 | 346.8 | 618.3 | 615.8 |
| other | 14.8 | 16.4 | 65.8 | 88.2 | 86.4 | 64.7 |
| b) other sectors | 120.9 | 131.2 | 161.4 | 178.1 | 164.2 | 146.5 |
| **2. Capital and financial account** | **-136.8** | **86.7** | **-48.2** | **222.3** | **376.2** | **171.2** |
| 2.1. Capital account | 18.0 | 69.9 | 135.3 | 190.0 | 196.3 | 112.4 |
| 2.2. Financial account | -154.8 | 16.8 | -183.6 | 32.3 | 179.9 | 58.7 |
| **3. Reserve assets** | **-266.7** | **76.0** | **165.5** | **-81.1** | **-148.7** | **-248.7** |
| 3.1. Errors and omissions | -44.3 | -87.7 | 82.6 | -88.9 | -41.6 | 54.7 |
| of which: valuation adjustment | 112.8 | -137.0 | -36.0 | 98.7 | 51.2 | 64.8 |

a Estimates.
b Central Bank of Lesotho projections.

Source: Central Bank of Lesotho (2014), *Annual Report 2013*, March.

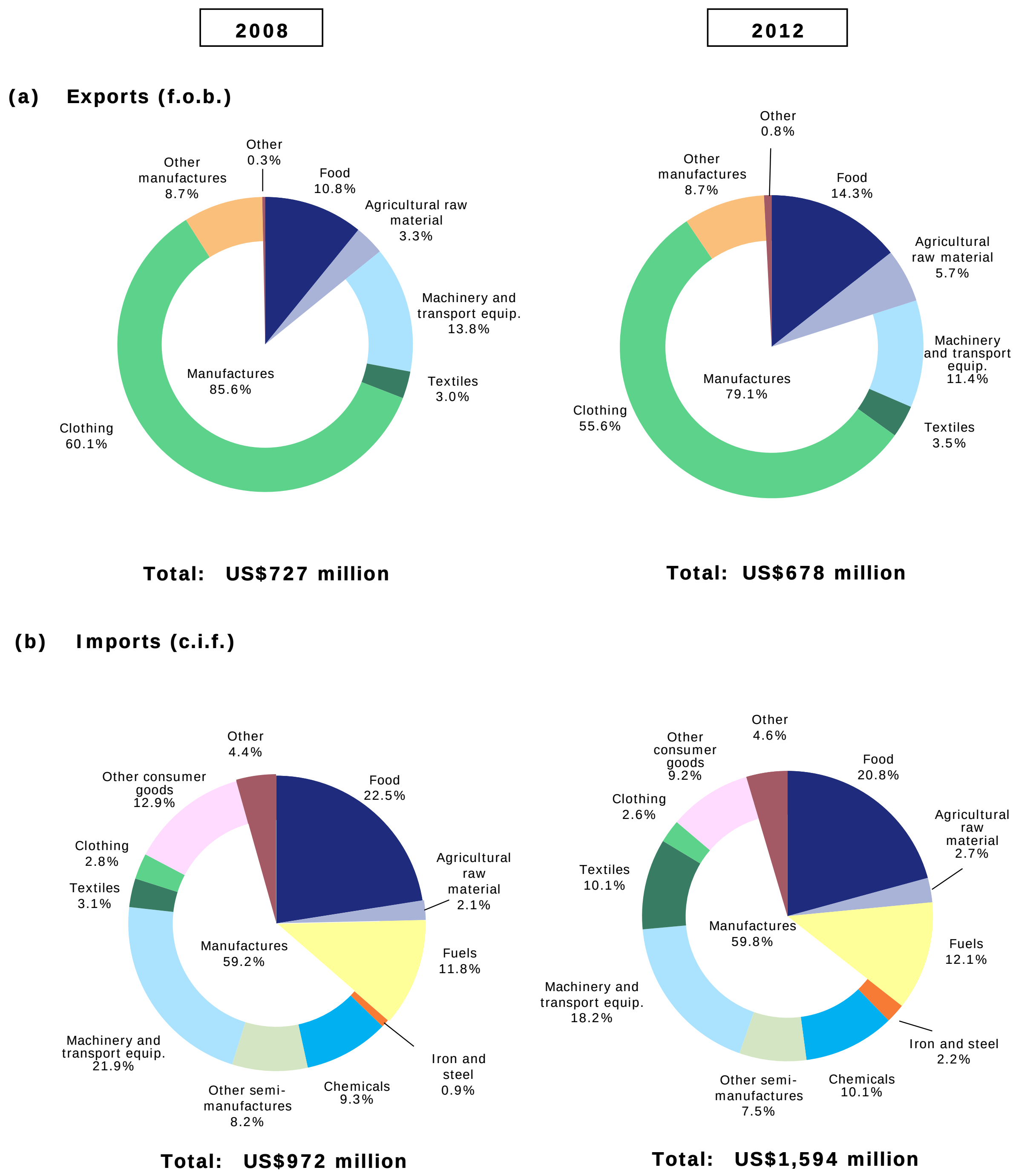
## 1.3 Trade Performance in Goods and Services

1.13. Lesotho's participation in world trade differs significantly from that of the other SACU members. In 2013, Lesotho ranked 130th among world merchandise exporters (excluding intra-EU trade) and 126th among importers. Only Swaziland performed worse than Lesotho for goods imports. In services trade, Lesotho ranked 186th among exporters and 166th among importers[5], in both cases placing last among the SACU countries.[6] During the period under review, Lesotho exhibited a trade deficit for goods and services and despite some progress in diversification, its trade structure remains concentrated in very few markets and products.

1.14. During the period under review, Lesotho's trade deficit for goods widened. Its exports fluctuated, while its imports grew steadily to about US$1.6 billion in 2012. In the same year, its exports amounted to US$678 million (Chart 1.1). Compared to 2008, Lesotho's export basket did not change much. During the period reviewed, apparel exports remained Lesotho's leading sector, accounting for 55.6% of the total in 2012, compared to 60.1% in 2008. It was followed by food (14.3%) and machinery and transport equipment (11.4%). Its import basket also remained almost unchanged during the same period. Lesotho's main imports continue to be food products, machinery and transport equipment, and fuels. Together, they accounted for about half of total imports in 2012 (Tables A1.1 and A1.2).

[5] WTO Statistics database. Viewed at: http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=LS.
[6] WTO Trade Profiles 2014.

## Chart 1.1 Product composition of merchandise trade, 2008 and 2012



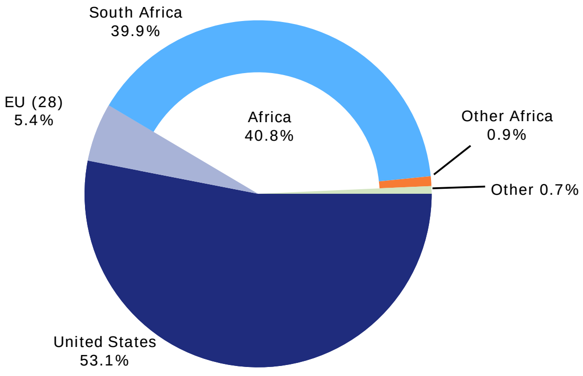

Source: WTO Secretariat calculations, based on data provided by the authorities and on UNSD Comtrade database (SITC Rev.3).

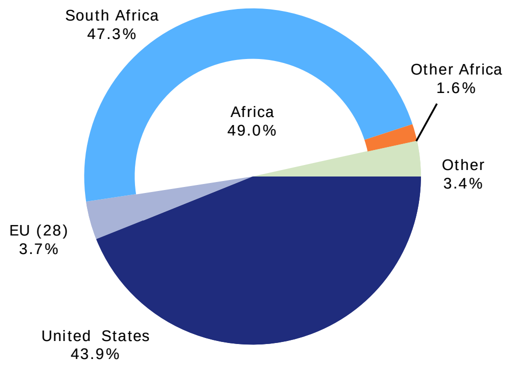
1.15. In terms of market structure, Lesotho's trade remains heavily concentrated in South Africa especially for its imports (Chart 1.2 and Table A1.4). In 2012, imports from South Africa accounted for 89% of the total, compared to 95% in 2008. Imports are also sourced from Chinese Taipei (4.7% of total imports in 2012) and China (2.8%).

**Chart 1.2 Direction of merchandise trade, 2008 and 2012**

| 2008 | 2012 |
|---|---|

**(a) Exports (f.o.b.)**

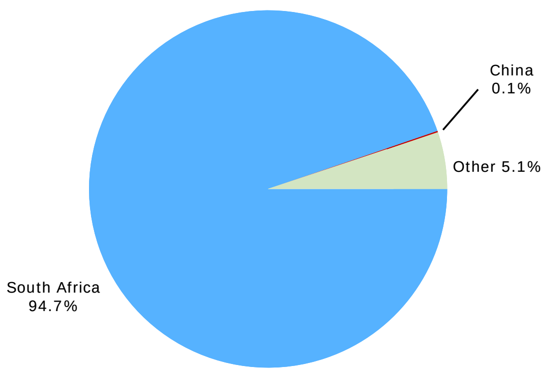


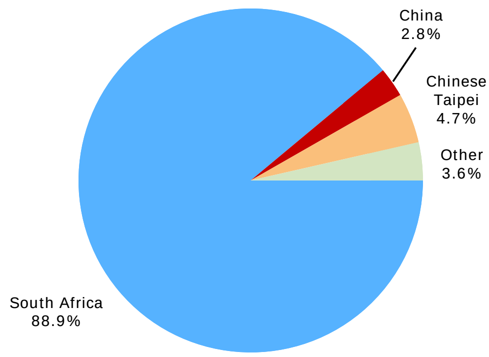




**Total: US$727 million**

**Total: US$678 million**

**(b) Imports (c.i.f.)**




**Total: US$972 million**

**Total: US$1,594 million**

Source: WTO Secretariat calculations, based on data provided by the authorities and on UNSD Comtrade database (SITC Rev.3).

1.16. On the export side, South Africa but also the U.S. capture most of Lesotho exports (Chart 1.2 and Table A1.3). Together, these two markets accounted for about 91% of total exports in 2012. During the period reviewed, the share of exports to the U.S. declined with respect to that of South Africa, totalling 44% of total exports in 2012, compared to 53% in 2008. The share of exports to the EU also slightly declined and went from 5.4% in 2008 to 3.7% in 2012. Exports to the EU market refer mainly to diamond sales to Belgium, while those to the U.S. fall in the apparel category and reflect Lesotho's participation in clothing value chains.

1.17. In trade in services, Lesotho recorded a trade deficit during the period 2008-13. This deficit has narrowed since 2012 as a result mainly of a decline in imports of travel services, which is Lesotho's main import (Table 1.3). The travel industry is also Lesotho's leading export sector in services. In 2013, it accounted for about 70% and 59% of total exports and imports, respectively. The other main exports were other business services (20.7% of total exports in 2013), telecommunications (5.3%) and transport services (3.7%). On the import side, travel services were followed by transport (17% of total imports in 2013), insurance services (6%) and telecommunications (3%).

### Table 1.3 Lesotho trade in commercial services (in US$ million), 2008-13[a]

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|
| **Exports of commercial services** | **44.7** | **35.7** | **43.4** | **46.2** | **68.6** | **56.6** |
| Transport | 1.0 | 0.9 | 3.6 | 4.5 | 3.0 | 2.1 |
| Travel | 30.2 | 29.9 | 24.6 | 28.6 | 46.2 | 39.3 |
| Insurance and pension services | 0.3 | 0.7 | 0.0 | 2.2 | 1.9 | 0.0 |
| Financial services | 0.3 | 0.4 | 0.6 | 0.6 | 0.6 | 0.5 |
| Charges for the use of intellectual property | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Telecommunications, computer, and information | 4.9 | 1.7 | 0.8 | 1.4 | 3.8 | 3.0 |
| Other business services | 7.8 | 2.1 | 13.8 | 9.0 | 13.1 | 11.7 |
| **Imports of commercial services** | **379.1** | **396.8** | **409.8** | **451.4** | **421.3** | **354.6** |
| Transport | 48.0 | 46.3 | 66.7 | 73.7 | 74.1 | 61.5 |
| Travel | 243.2 | 239.0 | 270.2 | 290.4 | 248.2 | 209.9 |
| Insurance and pension services | 14.6 | 12.0 | 13.5 | 13.7 | 27.3 | 22.6 |
| Financial services | 2.2 | 0.0 | 1.8 | 2.0 | 1.8 | 1.6 |
| Charges for the use of intellectual property | 1.2 | 0.4 | 4.9 | 5.2 | 4.8 | 4.2 |
| Telecommunications, computer, and information | 5.7 | 4.8 | 5.6 | 8.1 | 8.0 | 9.7 |
| Other business services | 64.2 | 94.3 | 47.1 | 58.3 | 57.2 | 45.1 |

a Services excluding government services.

Note: Based on BPM 6.

Source: WTO-UNCTAD trade in services database.

## 1.4 Foreign Direct Investment

1.18. Lesotho is a net recipient of foreign direct investment (FDI) (stocks), most of which come from outside the SACU region (Table 1.4). During the period 2008-13, FDI increased substantially, especially after 2010. In that year, investment rose to US$1.4 billion from about US$0.6 billion in 2009, mainly reflecting the rise in investment in the mining sector. During the following years, FDI stocks did not vary much but in 2013 they declined to US$1.2 billion due to a reduction in U.S. investment in manufacturing industries.

### Table 1.4 Foreign direct investment, stock (in US$ million), 2008-13

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|
| Inward | 534 | 591 | 1,422 | 1,498 | 1,408 | 1,237 |
| % of SACU | 0.6 | 0.4 | 0.7 | 0.9 | 0.8 | 0.8 |
| Outward | 79 | 86 | 244 | 253 | 234 | 205 |
| % of SACU | 0.2 | 0.1 | 0.3 | 0.3 | 0.2 | 0.2 |

Source: UNCTAD Stat. Viewed at: http://unctad.org/en/Pages/Statistics.aspx.

# 2 TRADE AND INVESTMENT REGIME

## 2.1 General Framework

2.1. There has been no major change in the legal and institutional framework for the formulation of Lesotho's trade and investment policy since its last Review in 2009. The framework is based on the Constitution of 1993[1], the SACU Agreement and several laws and regulations, which are in part shaped at the SACU level.

2.2. Lesotho is a constitutional monarchy. The King is the head of state and the Prime Minister the head of government. Under the Constitution, the system of government has three branches: executive, legislative and judicial (Box 2.1). The executive power is vested in the King but exercised through the Prime Minister. The legislative power is vested in the Parliament, which consists of the King, the Senate and the National Assembly. The judicial power is exercised by the Court of Appeal, the High Court and other courts established by the law.

### Box 2.1 Lesotho's political system

**Monarchy:** The King is the head of state. He acts according to the Constitution and on the advice of the Cabinet of Ministers or the Council of State unless otherwise provided for by the Constitution. The Cabinet of Ministers consists of the Prime Minister and other Ministers appointed by the King who are members of the National Assembly or Senators (Articles 86-88 of the Constitution). The Council of State comprises the Prime Minister and other key members of the government structures (Article 95 of the Constitution). The King and his successors are designated by the College of Chiefs in accordance with customary law (Articles 44, 45 and 91 of the Constitution). The College of Chiefs consists of 22 Principal Chiefs who are nominated by the King on the advice of the Council of State (Article 104 of the Constitution). The current King of Lesotho has been in power since 1996.

**Executive power:** It is vested in the King but is exercised through the Prime Minister, who is the head of government and appointed for a five-year term by the King on the advice of the Council of State. The Prime Minister shall be a member of the National Assembly and must enjoy the support of the majority of the National Assembly. The term of the current Prime Minister began in March 2015.

**Legislative power:** It is vested in the Parliament, which consists of the King, a (non-elected) Senate and a (elected) National Assembly. The Senate comprises 22 Principal Chiefs and 11 Senators nominated by the King on the advice of the Council of State. The National Assembly consists of 120 members, of which 80 are elected by universal suffrage from constituencies using the simple majority. The remaining 40 members are elected through proportional representation. The National Assembly is elected every five years (Articles 54-57 of the Constitution). The last election took place in February 2015.

**Judicial power:** The judicial system is comprised of a High Court, a Court of Appeal and subordinate courts and tribunals established by the Parliament. The Chief Justice of the High Court and the President of the Court of Appeal are appointed on the advice of the Prime Minister, while the judges of both courts are appointed on the advice of the Judicial Service Commission (Articles 118, 119 and 124 of the Constitution). The duration of their appointments is not specified in the law.

**Law-making process:** The law-making process consists of various stages and starts with a policy recommendation drafted by the sponsoring ministries and ends with the publication of the Act approved by the King in the Gazette. The formulation of a desired law is the responsibility of each ministry. First the ministry must draft a policy recommendation and seek cabinet approval in that respect. Once the Cabinet approves the policy, the ministry will seek the approval for the drafting of the bill. If approved, the Cabinet instructs the Office of the Parliamentary Counsel to draft the bill in coordination with the sponsoring ministry and submit it for comments to all relevant stakeholders. Once the draft bill is validated by the ministry, it is sent for approval to the Attorney General and the Cabinet. The bill is then submitted to Parliament, first to the National Assembly and then, if passed, to the Senate. When the bill is passed by the Senate and an agreement has been reached between the two Houses on any amendments to the draft, the bill is presented to the King for royal assent. He can assent or withhold assent. If the bill is assented to it becomes an Act (law) and must be published promptly in the Gazette to come into operation (Article 78 of the Constitution).

Source: Lesotho's Constitution (1993) as amended in 2004 and information provided by the authorities.

2.3. In the hierarchy of legal instruments, the Constitution is the supreme law and prevails over any other legal instrument[2]; it is followed by acts, regulations, circulars and administrative

[1] The Constitution of Lesotho was adopted on 2 April 1993, and has been amended five times since (1996, 1997, 1998, 2001 and 2004).

[2] Article 2 of the 1993 Constitution.

decisions.[3] As for international treaties, once adopted they must be ratified by Parliament to become part of the domestic legislation. International treaties are below the Constitution and must be consistent with domestic law. Policy formulation is the responsibility of the relevant ministry, who first must prepare a policy paper to set out the need for a bill. The private sector cannot initiate a policy recommendation for a law but according to the authorities it is invited to participate in the law-making process from the development of a policy to the development of the law. If the policy is approved by the Cabinet of Ministers (hereafter the Cabinet), a bill can be drafted. Once the bill is approved by the Cabinet and passed by the Parliament, it is sent to the King for its enactment. All enacted bills (i.e. Acts) are published in the Gazette (Box 2.1). As of May 2015, Lesotho did not have an online version of the Gazette.

2.4. The Ministry of Trade and Industry (MTI) is the main institution responsible for the formulation, development, management and implementation of Lesotho's trade policy. The MTI intends to create a business environment that is conducive to the development of industries, trade and investment. Moreover, the MTI chairs the Inter-Ministerial Textile and Apparel Industry Task Team[4] which is in charge of analysing industry performance and making recommendations. Until February 2015, the functions of the MTI were carried out by the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM), but on that date the MTICM was split into two ministries: the MTI and the Ministry of Small Business Development, Cooperatives and Marketing (MSBDCM), whose main focus will be to promote small, micro and medium enterprises. Other institutions involved in the formulation and implementation of trade policies include the Ministry of Finance[5], the MSBDCM, the Lesotho Revenue Authority, Ministry of Agriculture and the Central Bank.

2.5. Lesotho's main trade policy objectives are to expand and diversify exports and promote foreign investment with a view to achieving sustainable and inclusive growth.[6] To this end, government priorities include increasing Lesotho's productive capacity by removing supply-side constraints and improving its infrastructure. Lesotho has also identified four economic sectors with great potential for growth and employment generation: manufacturing, mining, agriculture and tourism. These objectives and strategies are described in Lesotho's National Strategic Development Plan 2012–17 (NSDP).[7] The NSDP was published in 2012 and outlines the actions needed to achieve the goals set in Lesotho's National Vision 2020, adopted in 2004.

## 2.2 Trade Agreements and Arrangements

### 2.2.1 WTO

2.6. Lesotho is an original Member of the WTO[8], and accords at least MFN treatment to all its trading partners.

2.7. Lesotho faces challenges in the implementation of WTO agreements on areas such as TBT, SPS and intellectual property. As an LDC, Lesotho benefits from special and differential treatment, including in the implementation of WTO Agreements. It may for instance delay the application of certain provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) until 2021 (Section 3.3.5.2). Lesotho is not party to the Plurilateral Agreements on Government Procurement, Trade in Civil Aircraft and on Information Technology (ITA); and did not participate in the negotiations on basic telecommunications and financial services that took place following the Uruguay round. Thus, its GATS Schedules (1994) have not been subject to any modification.

[3] Information provided by the authorities.

[4] The Inter-Ministerial Task Team was established in 2004 by the Government in its efforts to develop Lesotho's manufacturing capacity.

[5] In 2012, the Ministry of Finance and Development Planning was divided into two new ministries: the Ministry of Finance and the Ministry of Development Planning.

[6] The NSDP serves as the implementation strategy for the National Vision 2020 and has six strategic pillars: (a) pursue high and inclusive economic growth; (b) develop key infrastructure; (c) enhance the skills base, technology adoption and foundation for innovation; (d) improve health, combat HIV and AIDS, and reduce vulnerability; (e) reverse environmental degradation and adapt to climate change; and (f) promote peace, democratic governance and build effective institutions.

[7] The NSDP replaces Lesotho's Poverty Reduction Strategy Paper (PRSP).

[8] The MTI coordinates all WTO issues in Lesotho and participates in the WTO through the Permanent Mission of Lesotho in Geneva, which operates under the Ministry of Foreign Affairs.

2.8. During the review period, Lesotho submitted notifications to the WTO (Table 2.1), but as of June 2015, some were still pending.[9]

### Table 2.1 Notifications to the WTO, 2009-15[a]

| Agreement | Description | Periodicity | WTO document (latest if periodic) |
|---|---|---|---|
| **Agreement on Agriculture** | | | |
| Articles 10 and 18.2 | Export subsidy (ES:1) | Annual | G/AG/N/LSO/3 (10.10.2013) |
| Article 18.2 | Domestic support (DS:1) | Annual | G/AG/N/LSO/4 (11.10.2013) |
| **General Agreement on Trade in Services** | | | |
| Article III:3 | Laws/regulations | Ad hoc | G/C/N/675 (14.01.2013)<br>G/C/N/674 (14.01.2013)<br>G/C/N/673 (14.01.2013) |
| **Agreement on Implementation of Article VII of the GATT 1994** | | | |
| Article 22.2 | Changes in laws/relevant regulations | Ad hoc | G/VAL/N/1/LSO/1 (18.10.2013) |
| **Agreement on Import Licensing Procedures** | | | |
| Article 1.4(a) | Sources in which rules and information relevant to the Agreement are published and copies of publications | Once; ad hoc for changes thereafter | G/LIC/N/1/LSO/1 (23.11.2010) |
| Article 7.3 | Replies to questionnaire on import licensing procedures | Annual | G/LIC/N/3/LSO/2 (23.11.2010) |
| Article 8.2(b) | Changes in laws/regulations and administrative procedures | | G/LIC/N/1/LSO/1 (23.11.2010) |
| **Agreement on Subsidies and Countervailing Measures** | | | |
| Article 25.1 and GATT Article XVI:1 | Subsidies | Annual (triennial full notification and annual changes) | G/SCM/N/186/LSO (19.11.2010) |
| Article 25.11 | Countervailing duty actions (taken within the preceding six months) | Semi-annual | G/SCM/N/250/Add.1 (10.04.2013) |
| **Trade-Related Aspects of Intellectual Property Rights** | | | |
| Article 69 | Specification of contact points; Changes to the information on specified contact points | Once (1 January 1996 or, for new Members, promptly upon becoming a Member) | IP/N/3/LSO/1 (17.01.2013) |
| **Unspecified** | | | |
| G/L/59 | Notification procedures for quantitative restrictions | | G/MA/NTM/QR/1/Add.12 (03.05.2011) |

a As of 12 June 2015

Source: WTO Secretariat.

2.9. Lesotho has never been involved in a trade dispute at the WTO and according to the authorities neither has it been involved in a regional or bilateral dispute outside the WTO.

2.10. Lesotho fully supports the multilateral trading system and is actively engaged in the work of the WTO. It insists on the importance of concluding the Doha Round negotiations as soon as possible and updating the rules of the WTO with a view to strengthening its functioning and ensuring it adapts to today's trade landscape. For Lesotho, development must continue to be at the heart of WTO's work programme. It has urged other WTO Members to prioritize LDCs' needs and advocated, *inter alia*, for a smoother and faster accession framework for LDCs, duty-free and quota-free market access for LDCs, and for more favourable treatment of services and service suppliers from LDCs. Subsequently, these initiatives took the form of WTO decisions and were approved in 2012 and 2013 as part of the Bali package.[10] Lesotho also calls for adequate financial and technical assistance to address supply-side constraints in specific sectors.[11]

[9] WTO statistics database, "Trade Profiles: Lesotho". Viewed at: http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=LS.

[10] WTO documents WT/L/508/Add.1, 30 July 2012; WT/MIN(13)/43, WT/L/918, 11 December 2013; and WT/MIN(13)/44, WT/L/919, 11 December 2013.

[11] WTO documents WT/MIN(11)/ST/85, 16 December 2011 and WT/MIN(09)/ST/115, 2 December 2009.

2.11. Lesotho participates in various negotiating groups, including the ACP group (for agricultural issues only), the African group, the Group of 90 (G-90)[12] and the group of least developed countries (LDCs). It is also a co-sponsor of the proposal on intellectual property (also known as "W52" sponsors) that includes the creation of a registry of geographical indications for wines and spirits protected under the Agreement on Trade-Related Aspects of Intellectual Property Rights.[13]

### 2.2.2 Regional trade agreements

2.12. Besides the SACU Agreement, Lesotho has two other regional trade agreements in force: the SADC Agreement and the agreement between SACU and EFTA (see Main Report, Section 2). They have all been notified to the WTO.[14] In addition, during the period under review, Lesotho as part of SACU signed two new trade agreements, one with the U.S. and another with MERCOSUR (see Main Report, Section 2). Both agreements were signed in 2008 and as of April 2015, none of them had been ratified. During the same period, it also concluded the negotiations of an Economic Partnership Agreement (EPA) with the European Union (see Main Report, Section 2).[15]

2.13. The negotiations of the EPA between the EU and SADC group of countries (i.e. SACU countries plus Mozambique)[16] concluded in July 2014 and its signature is pending. Pending the EPA's ratification and implementation, Lesotho can continue to enter the EU market under the Everything but Arms (EBA) scheme.

2.14. Negotiations are also ongoing to conclude a trade agreement between SACU and India and between COMESA, EAC and SADC (i.e. the Tripartite Agreement) (see Main Report, Section 2.3).

### 2.2.3 Other agreements and arrangements

2.15. Under the U.S. African Growth and Opportunity Act (AGOA), Lesotho's exports to the U.S. market are granted duty-free access. AGOA is of particular importance to Lesotho as almost all its exports to the U.S. enter under this scheme (Chart 2.1). This programme was first approved in 2000 and was extended in June 2015 (before its expiration in September 2015) for ten more years until September 2025. This scheme offers broader benefits than the U.S. Generalized System of Preferences (GSP), in particular for textiles and apparel. Indeed, AGOA extends duty-free and quota-free treatment for eligible apparel articles made in qualifying sub-Saharan African countries[17] and for lesser developed countries provides more flexible rules of origin for these products, known as the third-country fabric rule. Lesotho qualifies for both of these benefits and therefore can export textiles and apparel duty-free even if it has used non-U.S. yarns and fabrics in their production. In fact, it could use yarns and fabrics from any country in the world. During the period 2008-14, all goods exported by Lesotho to the U.S. under the AGOA scheme were related to apparel.

2.16. Lesotho's products also benefit from preferential access to Australia, Belarus, Canada, the European Union, Iceland, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Turkey and the United States under their respective GSPs, as well as to India, Morocco, Chile, China, Chinese Taipei, Kyrgyz Republic and Korea (Republic of) under their LDC-specific preferential schemes.[18]

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[12] The G-90 comprises the African group, ACP group and the group of least developed countries.

[13] WTO document TN/C/W/52, 19 July 2008.

[14] WTO documents WT/REG256/N/1, 3 November 2008 (EFTA-SACU); WT/REG231/N/1, 28 June 2007 (SACU 2002); and WT/REG176/N/1/Rev.1, 27 August 2004 (SADC). The coverage of these three agreements as notified to the WTO refers only to goods.

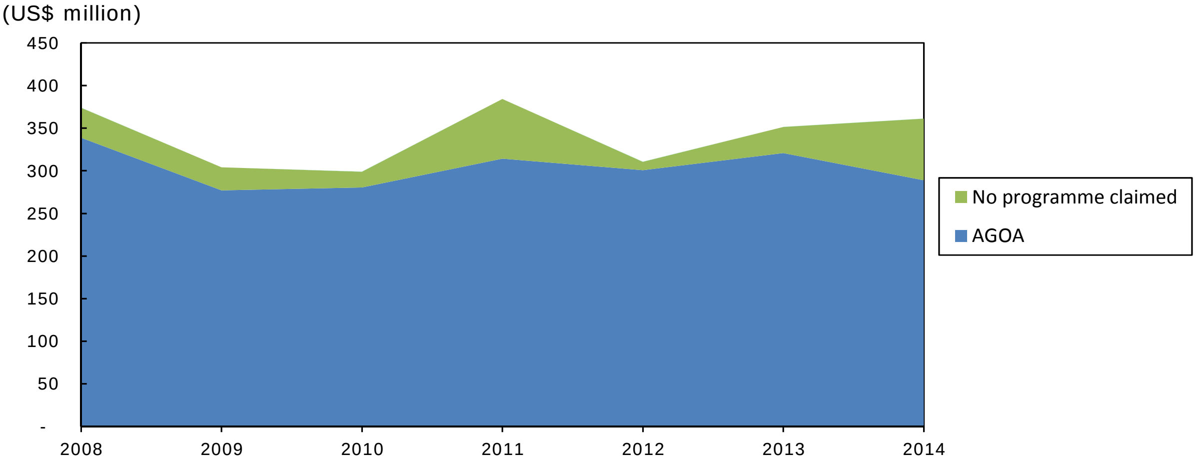
[15] Contrary to the preferential treatment scheme under the Cotonou agreement, the EPA is a reciprocal trade agreement which provides duty- and quota-free access to the EU market, and covers trade in services and investment.

[16] Angola may also join in the future.

[17] To be eligible for apparel benefits, countries must have in place a system to prevent illegal trans-shipment and use of counterfeit documentation, as well as effective enforcement and verification procedures. As of December 2014, 26 of the 38 AGOA-eligible countries qualified for preferential access for textiles and apparel and 28 for the third-country fabric rule. Information viewed at the US Office of Textiles and Apparel (OTEXA) website. Viewed at: http://otexa.ita.doc.gov/.

[18] WTO Preferential Trade Agreements Database. Viewed at: http://ptadb.wto.org/Country.aspx?code=426.

**Chart 2.1 U.S. imports from Lesotho, 2008-14[a]**




a The GSP programme accounted for less than 0.05% of U.S. total imports from Lesotho during the period 2008-14, and is therefore not displayed.

Source: US International Trade Commission. Viewed at: http://dataweb.usitc.gov.

## 2.3 Investment Regime

### 2.3.1 Legal and institutional framework

2.17. Lesotho does not have any laws specific to foreign investment[19], but applies a number of laws that regulate the establishment and operation of companies (both local and foreign) based on a licensing system (Table 2.2). During the period 2008-15, Lesotho made some reforms to these laws to facilitate and simplify the establishment of businesses, and thus improve its investment climate (see Section 2.3.2). Its investment regime is open and foreign and local investors are in general subject to the same conditions, with a few restrictions applying mainly to small-scale activities and certain sectors (see Section 2.3.3). The right to private property is guaranteed by the Constitution and expropriation is subject to compensation.[20] During the period reviewed, Lesotho also reformed its land system by allowing foreigners to hold a land title subject to certain conditions (see Section 2.3.3). In 2009, it officially established the One-Stop Business Facilitation Centre (OBFC) with a view to streamlining company registration and licensing procedures. The OBFC operates like a single window and was established under the MTI.

**Table 2.2 Main legislation affecting investment**

| Legislation | Enactment date | Last amendment (year), as of June 2015 |
|---|---|---|
| Land Act 2010 | 14-06-10 | No amendments since its enactment |
| Land Administration Authority Act 2010 | 14-06-10 | No amendments since its enactment |
| Industrial Licensing Act 2014 | 05-09-14 | No amendments since its enactment |
| Industrial Licensing Regulations 2014 | 31-10-14 | No amendments since its enactment |
| Companies Act 2011 | 02-09-11 | No amendments since its enactment |
| Companies Regulations 2012 | 27-04-12 | No amendments since its enactment |
| Trading Enterprises Order 1993 | 03-06-93 | 1996 |
| Trading Enterprises Regulations 2011 | 29-12-99 | 2011 |

Source: WTO Secretariat.

2.18. The main government institutions involved in the formulation and implementation of investment policies are: the Lesotho National Development Corporation (LNDC), the Lesotho Tourism Development Corporation (LTDC) and the Basotho Enterprise Development Corporation (BEDCO). The LNDC is responsible for the implementation of Lesotho's industrial policies and the promotion of both local and foreign investment. It encourages investment in the manufacturing

[19] In this respect, the authorities indicated that a law is at the development stage.
[20] Article 17 of the Constitution.

and processing industries, mining, commerce, chemicals, petrochemicals, plastics, technology and tourism. The LNDC provides assistance to foreign investors with company registration, licences and work permits; publishes information on investment opportunities; and offers incentives such as factory space at discounted rental rates. BEDCO focuses on promoting and supporting indigenous Basotho businesses and the LTDC is in charge of promoting tourism projects with a high labour absorption capacity.

2.19. Foreign investment is also governed by Lesotho's bilateral agreements for the promotion and reciprocal protection of investments (APRPIs). As of April 2015, Lesotho had three APRPIs (date of signature in parenthesis): one with Switzerland (2004), one with Germany (1982) and another with the United Kingdom (1981).[21] During the period 2008-15, no new APRPIs were signed. In addition, Lesotho has double taxation agreements (DTAs) with South Africa (1996), the United Kingdom (1997) and Mauritius (2004). During the period under review, it signed three other DTAs, one with Botswana (2010), one with Seychelles (2011) and another with South Africa (2014), all of which have still to be ratified. Once in force, the new DTA with South Africa will replace the 1996 DTA.[22]

2.20. Lesotho is party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) and to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Award.[23] It is also a member of the Multilateral Investment Guarantee Agency (MIGA) and a partner of the Overseas Private Investment Corporation (OPIC).[24]

2.21. In order to expedite the adjudication of commercial cases, in 2010 Lesotho established a Commercial Court Division, which was officially inaugurated in February 2013. Since 2010, the Commercial Court has issued 51 decisions.[25] According to the authorities, the creation of the court has led to a noticeable improvement in the disposal of cases and to increased satisfaction from the business community.

### 2.3.2 Investment registration and business establishment

2.22. To start a business in Lesotho, both foreign and local investors must first register their company and then apply for a trading and/or manufacturing licence. During the period reviewed, Lesotho conducted various reforms to simplify the registration of companies and the application for trading and manufacturing licences. The main laws governing the setting up of a business are the Industrial Licensing Act 2014[26] and its Regulations 2014[27]; the Companies Act 2011[28] and its Regulations 2012[29]; and the Trading Enterprises Order 1993 and its Regulations 2011.[30] During the period under review, Lesotho also implemented the "One-Stop Business Facilitation Centre" (OBFC) to simplify and streamline business procedures and facilitate FDI. The OBFC started to operate in 2007[31] under the MTI but was officially established in 2009.[32] Similar to a single window, it places a number of procedures under one roof. Its services include corporate registration as well as the issuance of trading and/or manufacturing licences, export and import permits, work permits and residence permits.

[21] UNCTAD online information. Viewed at: http://investmentpolicyhub.unctad.org/IIA/CountryBits/117.

[22] Lesotho Revenue Authority.

[23] Lesotho signed the ICSID Convention on 19 September 1968 and ratified it on 8 July 1969. The ICSID Convention entered into force for Lesotho on 7 August 1969.

[24] The OPIC is the U.S. Government's development finance institution providing loans, guarantees, political risk insurance, and support for investment funds to help American businesses expand into eligible countries.

[25] Information viewed at http://www.lesotholii.org/content/high-court-commercial-division.

[26] Industrial Licensing Act 2014 (Act No. 10 of 2014) published in the Gazette on 5 September 2014.

[27] Industrial Licensing Regulations 2014 (Legal Notice No. 89 of 2014) published in the Gazette on 31 October 2014.

[28] Companies Act 2011 (Act No. 18 of 2011) published in the Gazette on 2 September 2011.

[29] Companies Regulations 2012 (Legal Notice No. 57 of 2012) published in the Gazette on 27 April 2012.

[30] Trading Enterprises (Amendment) Regulations 2011 (Legal Notice No. 158 of 2011) which amends the Trading Enterprises Regulations of 1999 (Legal Notice No. 107 published in the Gazette on 29 December 1999).

[31] Information provided by the authorities.

[32] The OBFC was established through the Memorandum of Understanding of 12 February 2009 between the Ministry of Trade and Industry, Cooperatives and Marketing, the Ministry of Labour and Employment, Ministry of Home Affairs, and the Lesotho Revenue Authority (LRA).

2.23. Company registration takes place at the Registrar of Companies located at the OBFC, which will issue a registration certificate.[33] Registration procedures were governed by the Companies Act of 1967 until 2011 when Lesotho enacted a new Companies Act, which repeals the 1967 Act and simplifies registration procedures. Under the new act, once an investor registers its company it receives a registration certificate and is assigned a tax identification number (TIN). Prior to this reform, investors were required to make two registrations separately, one with the OBFC for the registration certificate and then another with the LRA for the TIN. The Companies Act of 2011 also eliminates the requirement under which investors needed to appoint a legal representative to register their companies.[34] The new Act also allows foreign companies to register as an external company within 10 days of opening a business in Lesotho, and provides for the electronic registration of companies and therefore for the implementation of a computerized system.[35] The authorities indicated that electronic registration has been operational since December 2014.

2.24. Once a company is incorporated, investors must apply for a trading licence and/or manufacturing licence depending on the business activity they would like to undertake. An environment impact assessment (EIA) licence may also be required. The issuance of trading licences is governed by the Trading Enterprises Order of 1993, as amended in 1996, and the Trading Enterprises Regulations of 1999, as amended in 2011, while the issuance of manufacturing licences is governed by the Industrial Licensing Act 2014, which repeals the 1969 Act[36], the Industrial Licensing Regulations 2014 and the Pioneer Industries Encouragement Act 1969. EIA licences are regulated by the Environment Act 2008.

2.25. The Trading Enterprises Order of 1993 and its regulations require a trading licence for a list of 43 types of services; of which 17 are reserved for Lesotho nationals (see Section 2.3.4).[37] The duration of the licence is one year (renewable).[38]

2.26. In addition, every person wishing to engage in industrial operations must obtain a manufacturing licence under the Industrial Licensing Act 2014. Micro, small and medium enterprises may be exempted from this requirement.[39] The authorities indicated in this respect that the related regulations were still to be developed. One of the requirements to obtain a manufacturing licence is to submit an impact report on public health, occupational safety and environmental issues where necessary.[40] Foreign investment is subject to an entry threshold of US$250,000.[41] The duration of the licence is one year (renewable), unless otherwise specified.[42]

2.27. New businesses also require an EIA licence issued by the Department of Environment in the Ministry of Tourism, Environment and Culture. This requirement applies to a broad number of projects and activities including construction, transportation, mining, forestry-related activities, agriculture, the processing and manufacturing industries, energy and electric infrastructure, waste handling, storage, transport, treatment and disposal, and communications.[43]

2.28. In addition to these licences, investors (local and foreign) wishing to engage in activities such as mining, telecommunications, tourism, and liquor trading require a specific licence for each of these activities.

[33] Articles 6-7 of the Companies Act 2011.

[34] Article 18 of the Companies Act 1967.

[35] Articles 5(4) and 11 of the Companies Act 2011.

[36] Industrial Licensing Act 1969 (Act No. 27 of 1969).

[37] Article 14 of the Trading Enterprises Order 1993, as amended in 1996, and Schedule 1 Part 1 of the Trading Enterprises Regulations 1999, as amended in 2011.

[38] Article 17 of the Trading Enterprises Order 1993, as amended in 1996.

[39] Articles 4 and 15 of the Industrial Licensing Act 2014.

[40] Article 4 of the Industrial Licensing Act 2014 and Article 3 of the Industrial Licensing Regulations 2014. Only a few activities do not require an impact assessment: (a) manufacturing of concrete products, (b) water bottling, (c) bakery, (d) pre-packing, (e) jewellery manufacturing, (f) tombstone manufacturing, (g) printing, (h) ice cube manufacturing, (i) arts and crafts, (j) graphic design and sign writing, and (k) honey processing (Second Schedule of the Industrial Licensing Regulations 2014).

[41] Article 19 of the Industrial Licensing Regulations 2014. The regulations do not specify any minimum thresholds for domestic investments.

[42] Article 10 of the Industrial Licensing Regulations 2014.

[43] Article 25 and First Schedule (Part A) of the Environment Act 2008.

### 2.3.3 Restrictions on foreign investment

2.29. Lesotho encourages foreign investment in all sectors and maintains quite an open investment regime. Nevertheless, restrictions on foreign ownership are maintained in the case of land acquisition and of businesses operating in certain sectors. Lesotho also requires a minimum capital of US$250,000 for wholly foreign-owned companies.[44] During the period under review, the most significant change was the lift on the prohibition on the acquisition of land by foreigners in Lesotho.

2.30. In Lesotho, land is held by the State and allocated by land committees through a leasing system.[45] Until 2010 and according to the Land Act of 1979, only Lesotho nationals could lease land and hold a land title.[46] In 2010, Lesotho reformed its land system by enacting the Land Administration Authority Act[47] and a new Land Act[48], which repeals the Land Act of 1979.[49] Under the Land Act 2010, foreigners can lease land directly from the Government and hold land titles as long as they have a local partner that owns at least 20% of the company. The title is valid for 60 years.[50]

2.31. In order to circumvent the restrictions established under the Land Act 1979, the LNDC had established a system under which it leased land from the Government and sub-leased it to foreign investors for economic activities. It also made factory shells available for rent at a subsidized price. According to the authorities, the LNDC will continue to offer these services, which in the past were instrumental to the development of the textile sector.

2.32. The Land Administration Authority (LAA) Act 2010 establishes an autonomous government agency of the same name to be responsible for land administration, including land registration, cadastre, mapping and surveying, and will therefore replace the rural and urban land committees. The LAA also replaces the existing departments within the Ministry such as the Departments of Lands Surveys and Physical Planning and the Deeds Registry. The authorities indicated that the LAA was already operational.[51]

2.33. In addition, Lesotho applies some restrictions to foreign investors at the sectoral level, in particular in the case of small-scale activities. Under the Trading Enterprises Order of 1993 and its regulations, Lesotho requires a licence for a list of 43 types of services and activities[52], of which 17 are reserved for Lesotho nationals. These activities are: (a) agent of a foreign firm, (b) barber, (c) Basotho beer shop, (d) butcher, (e) snack bar, (f) domestic fuel dealer, (g) dairy shop, (h) general café, (i) general dealer, (j) greengrocer, (k) hawker, (l) street photographer, (m) broker, (n) mini-market, (o) hair and beauty salon, (p) petrol dealer, and (q) tentage dealer.[53] The duration of the licence is one year (renewable).[54]

2.34. There are also sector-specific legal instruments that impose restrictions on foreign investors in the areas of mining, banking and transportation (see Section 4). These restrictions have remained unchanged since the last Review.

### 2.3.4 Incentives to foreign investment

2.35. During the period 2008-15, Lesotho continued to promote foreign investment in particular in the areas of manufacturing, tourism, mining, water and energy.

[44] Article 19 of the Industrial Licensing Regulations 2014. It is worth noting that this amount is higher than the amount specified in Lesotho's GATS schedule of US$200,000 (WTO document GATS/SC/114).

[45] Articles 107-108 of the Constitution and Article 4 of the Land Act 2010.

[46] Article 6(a) of the Land Act 1979.

[47] Land Administration Authority Act 2010 (Act No. 9 of 2010) published in the Gazette on 14 June 2010.

[48] Land Act 2010 (Act No. 8 of 2010) published in the Gazette on 14 June 2010.

[49] Land Act 1979 (Act No. 17 of 1979) published in the Gazette on 15 November 1979.

[50] Articles 6(c) and 32(b) of the Land Act 2010.

[51] Article 28 of the Land Act 2010.

[52] Article 14 of the Trading Enterprises Order 1993, as amended in 1996, and Schedule 1 Part 1 of the Trading Enterprises Regulations 1999, as amended in 2011.

[53] Article 14 of the Trading Enterprises Regulations 1999, as amended in 2011.

[54] Article 17 of the Trading Enterprises Order 1993, as amended in 1996.

2.36. Lesotho grants mainly tax incentives to national and foreign investors for manufacturing activities (Section 4), including a lower income tax rate and no withholding tax on dividends. During the period under review, the existing benefits were not subject to any substantial changes, except in the case of firms exporting manufactured goods outside the SACU area which stopped benefiting from a zero income tax rate in 2014. In that year, Lesotho homogenized the income tax for manufacturing firms and set it at 10%, which is still below the standard income tax rate applied by Lesotho (i.e. 25%).[55] With this change, all manufacturing firms are now subject to the same income tax regardless of the market where they sell their products.[56] Prior to 2014, manufacturing firms whose income came from the sale of goods within the SACU area were subject to a 10% income tax rate, while manufacturing firms that exported goods outside the SACU area benefited from a zero tax rate. Under the Pioneer Industries Encouragement Act of 1969, manufacturing and building companies, as well as hotels and casinos can benefit from different tax incentives such as reductions in their income tax.

2.37. In addition, the LNDC provides factory space at a subsidized rate for manufacturing companies wishing to set up in Lesotho as well as assistance with the administrative procedures needed to establish and operate a company in Lesotho.

2.38. The authorities indicated that the other incentives that directly or indirectly promote investment are the rebates provided for in Schedules 3 and 4 of the SACU Agreement (see Main Report).

[55] Third schedule of the Income Tax Act 1993 and its amendments. The last amendment took place in 2014 (Legal Notice No. 2 of 2014) and was published on 13 June of that year. According to KPMG, the standard income tax rate of 25% was already below the average rate of 28% in the region in 2014. Information viewed at: http://www.kpmg.com/global/en/services/tax/tax-tools-and-resources/pages/corporate-tax-rates-table.aspx.

[56] Article 3 of the Income Tax (Amendment) Act 2014 (Act No. 2 of 2014).

# 3 TRADE POLICIES AND PRACTICES BY MEASURE

## 3.1 Measures Directly Affecting Imports

### 3.1.1 Customs procedures and requirements

3.1. Lesotho has taken a few steps to streamline its customs clearance procedures since its last Review in 2009. The main change was the launch of the Customs Modernization Programme and the increase in the number of services provided by the One-Stop Business Facilitation Centre, which operates like a single window.

3.2. Customs procedures are mainly governed by the Customs and Excise Act of 1982[1], its Regulations of 1984[2] and their related amendments. Both legal instruments are similar to South Africa's customs legislation. In particular, Lesotho's Customs and Excise Act provides for the application of Schedules 1 to 7 of South Africa's Customs and Excise Act of 1964 (also known as the Tariff Book). During the period under review, only the Customs and Excise Regulations were amended. The amendments were issued in 2012[3] to update warehouse fees and in 2014[4] to establish electronic customs declaration.[5]

3.3. The Lesotho Revenue Authority (LRA) is in charge of enforcing these laws and collecting customs and excise duties. Although most of Lesotho's trade is directed through South Africa, the payment of clearance and duties for goods destined for Lesotho takes places in Lesotho. Indeed, all goods that come from outside SACU and that are consigned to Lesotho are removed in bond from South Africa's customs office to the one in Lesotho where clearance takes places.[6]

3.4. Customs requirements for imports remained almost unchanged since the last Review. To clear imports from extra-SACU countries[7], importers must present: (a) a customs declaration form (bill of entry) known as the single administrative document (SAD) (see Main Report)[8]; (b) a commercial invoice; (c) a transport bill; (d) a packing list; (e) an import permit, if applicable; (f) a certificate of origin, if applicable; (g) a rebate certificate, if applicable; and (h) an import VAT credit facility letter for traders who can defer VAT.[9] For imports from SACU countries, traders must present: (a) a SAD form; (b) a commercial invoice; (c) an import permit, if applicable; and (d) an import VAT credit facility letter, if applicable.[10] Since 2008 and in addition to the documents listed above, all imports arriving in Lesotho from South Africa should be accompanied by a customs notification issued by the SARS authorities.

3.5. According to the authorities, importers are not required to register unless they wish to access a tax benefit for their shipments (extra-SACU). In that case, they must register with the LRA. In the case of rebates, in addition to registration with the LRA importers must apply to the One-Stop Business Facilitation Centre (OBFC) for a rebate certificate (Section 3.1.4.2).

3.6. Importers are not required to hire a clearing agent to clear goods through customs, but most importers do. According to the authorities about 70% of customs declarations are made through a clearing agent.

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[1] The Customs and Excise Act 1982 (Act No. 10 of 1982) has been amended five times in: 1983 (Act No. 4), 1984 (Act No. 3), 1986 (Orders No. 25 and No. 26) and 1988 (Act No. 21).

[2] The Customs and Excise Regulations have been amended 6 times in: 1985 (Legal Notice No. 72), 1994 (Legal Notice No. 83), 1995 (Legal Notice No. 85), 2012 (Legal Notice No. 30) and 2014 (Legal Notices No. 53 and No. 54).

[3] Legal Notice No. 30 of 2012 published in the Government Gazette on 29 February 2012.

[4] Customs and Excise Amendment Regulations No. 53 of 2014 (Electronic Declaration) and Legal Notice No. 54 of 2014 (Appointment of Place of Entry).

[5] In addition to the amendments of 2012 and 2014, a process to further amend the regulations to introduce provisions on non-intrusive scanning methods of inspection was ongoing in 2015.

[6] Under the removal in bond procedure, importers pay a bond or guarantee to the South African authorities, which is released once the Lesotho customs authorities acknowledge that they have received the shipment.

[7] According to the authorities, import requirements apply to all imports regardless of their value.

[8] The SAD is a form accepted in all SACU countries.

[9] Section 40 of the Customs and Excise Act 1982.

[10] The authorities indicated that for imports originating from South Africa the SAD form and other listed documents must be submitted only if their value exceeds M 5,000 (around US$440).

3.7. Import clearance remains largely manual and operates without a systematic risk management system. However during the period 2008-15, Lesotho took a few steps to modernize its customs procedures. In August 2012, the LRA launched a Customs Modernization Programme (CMP) to simplify and streamline customs procedures, and reduce costs for border users. The CMP includes the computerization of customs documentation and payment transactions, the adoption of risk management methods (such as non-intrusive methods for inspection) and the establishment of a preferred trader scheme.

3.8. Under the CMP, Lesotho initiated the implementation of the ASYCUDA World system, and since 2014 a pilot programme has been implemented at one border post to allow importers to submit the SAD form and other customs documents electronically.[11] This system is expected to be implemented across the whole country by March 2016. The authorities indicated that the estimated average time required for customs clearance is approximately 2 hours under the current manual clearance system.[12] In 2013, Lesotho also piloted a Preferred Trader Programme at one border post. The programme is expected to be gradually extended to all borders posts starting in August 2015.

3.9. Lesotho continues to rely heavily on tariff revenue. In 2013, SACU tariff revenue accounted for 46% of its total revenue or M 6,033 million (about US$498 million). This amount fluctuated significantly during the period 2008-15 and reached its lowest value in 2011 (M 2,605 million or US$215 million) as a result of the global crisis and a decline in exports to the SACU area and in particular to South Africa. In the following years, the SACU revenue recovered.

3.10. In 2009, the authorities officially established the OBFC with a view to streamlining customs procedures. The OBFC is housed in the Ministry of Trade and Industry (MTI) and has been operating since 2007 when it replaced the Trade and Investment Facilitation Centre (also known as the One-Stop Shop).[13] The OBFC works like a single window to promote investment. Its services include the issuance of import and export permits, rebate certificates and, since 2012, company and tax registration. However, as of April 2015, not all its functionalities had been implemented.

### 3.1.2 Customs valuation

3.11. Customs valuation in Lesotho is governed by the Customs and Excise Act of 1982 (Chapter 9) and its Regulations of 1984, and their related amendments. The provisions of these laws are based on the WTO Customs Valuation Agreement[14] and did not change during the period under review.[15] According to the authorities, about 98% of imports were valued according to the transaction value in 2013.[16]

3.12. To control undervaluation, Lesotho has had (since 2004) a valuation database for imported used vehicles, which contains information on the price, model and characteristics of the vehicle, as well as on the trader.

[11] The ASYCUDA World system allows customs administrations and traders to handle most of their customs transactions electronically.

[12] They further indicated that the metrics to measure clearance and release time under the automated system was underdevelopment.

[13] The Trade and Investment Facilitation Centre was created in 2006.

[14] In cases where the transaction value method cannot be used, the following five methods apply in sequential order: (a) transaction value of identical goods; (b) transaction value of similar goods; (c) deductive value; (d) computed value; and (e) "fall-back" value. At the request of the importer, the order of application of methods (c) and (d) may be reversed.

[15] The Customs and Excise Act 1982 embodied Articles 1 to 16 of the Agreement on Implementation of Article VII of the GATT concluded during the Tokyo Round (1979) (GATT documents VAL/1/Add.21 and VAL/1/Add.21(Suppl.1) of 28 November 1986 and 17 June 1987, respectively). This Agreement was replaced by the WTO Agreement on Implementation of Article VII of the GATT 1994 following conclusion of the Uruguay Round.

[16] WTO document G/VAL/N/1/LSO/1, 18 October 2013.

### 3.1.3 Rules of origin

3.13. Lesotho, like other SACU countries, applies both preferential and non-preferential rules of origin.[17]

3.14. Lesotho applies preferential rules of origin under all its RTAs in force (Section 2.3.2) i.e. SACU, EFTA-SACU and SADC (see Main Report). As for non-preferential rules of origin, they are described in the Customs and Excise Act of 1982 (section 47) and its Regulations (section 41). According to this Act, a good qualifies as originating in a given country if: (a) at least 25% of its production cost is represented by materials produced and labour performed in that country; (b) the last process in the production of that good took place in that country; and (c) a given production process, as determined by the Minister, takes place in that country. The Minister can modify the value content and establish exclusions.[18]

### 3.1.4 Tariffs

#### 3.1.4.1 MFN applied tariff

3.15. Imports originating outside SACU are subject to the common external tariff provided in the SACU Tariff Book (see Main Report, Section 3).

3.16. According to its WTO schedule, Lesotho does not apply any tariff-rate quotas (TRQs) on a MFN basis; but it applies preferential TRQs to meat and cheese from Switzerland under the agreement between SACU and EFTA.

#### 3.1.4.2 Bindings

3.17. Lesotho has bound all its tariffs at two levels: 60% and 200%. Lines bound at 200% account for 13% of the total number of lines (HS 2007) and refer mainly to agricultural products such as dairy products, meat, fruit and vegetables. Other products bound at 200% are chemicals, skins and fur skins, silk, wool, cotton and textile fibres. On two lines, applied tariff rates are higher than their bound levels (60%) (see Main Report, Table 3.5). These lines are subject to a mixed tariff, where the highest rate between the specific and the *ad valorem* applies. The two lines refer to worn clothes.

#### 3.1.4.3 Tariff concessions

3.18. Lesotho, as a member of SACU, applies rebates, refunds and drawbacks to a number of imported goods. These schemes are in general identical across SACU members (see Main Report, Section 3) but can also be member specific.[19] Under the SACU Agreement, two rebate schemes are of particular importance for Lesotho: the industrial rebates and the rebate under item 470.03, described respectively in Schedules 3 and 4 of the Tariff Book.

3.19. Under the industrial rebates, traders can import duty-free certain inputs used to produce goods for the domestic market. The inputs covered by this scheme are listed in Schedule 3 of the Tariff Book and are in general inputs not produced or in short supply in the SACU area.

3.20. The rebate under item 470.03 of Schedule 4 of the Tariff Book is a SACU general incentive scheme that covers all goods produced exclusively for export outside SACU. Under this programme, registered companies are exempted from duties on imports of raw materials from outside SACU provided that they export the final good to a country outside the SACU area. The rebate is granted to any component or material used in the manufacture, processing, finishing, equipping or packing of goods destined for export. If a company wishes to export to a SACU country after having benefited from the rebate, it will have to pay the duties that were initially exempted. To benefit from this rebate, companies must apply for a rebate certificate under item 470.03. Applications can be submitted twice a year, in January and July. Certificates are valid for

[17] WTO document G/RO/N/56, 27 May 2008.
[18] The authorities indicated that there were no changes during the period under review.
[19] Article 21 of the 2002 SACU Agreement.

six months and are renewable. In the case of Lesotho, the main users of this scheme are garment producers.

3.21. For both rebate schemes, traders must first register with the LRA and then apply to the OBFC for a rebate certificate.

3.22. Additionally, as of April 2015, there were two country-specific rebates: one for wheat (tariff line HS 1011) and another for dairy products (tariff line HS 04), which are used by Botswana, Lesotho, Namibia and Swaziland.

#### 3.1.4.4 Preferential tariffs

3.23. Lesotho grants preferential treatment according to the SACU and SADC agreements, and the agreement between SACU and EFTA (Main Report, Sections 2 and 3).

### 3.1.5 Other charges affecting imports

3.24. In addition to customs duties, imports are subject to: (a) excise duties, (b) levies and (c) a value-added tax (VAT). During the period under review, none of the rates of these charges were modified.

#### 3.1.5.1 Duties and levies

3.25. Under the SACU Agreement, Lesotho charges excise duties on a limited number of goods, both locally produced or imported, which are listed in Schedule 1 (Part 2) of the SACU Tariff Book. These duties are the same for all SACU countries and can take the form of specific, *ad valorem* or formula duties (which are capped at an *ad valorem* rate of 25%) (Main Report, Section 3).[20] Apparel and clothing accessories, which are a key industry for Lesotho, are subject to an excise duty of 7%. Excise duties collected by SACU parties are deposited quarterly into the SACU common revenue pool (Article 32 of the SACU Agreement).

3.26. The SACU Agreement (Schedule 1) also allows for the application of certain levies such as environmental levies (Main Report, Section 3). However, the authorities indicated that Lesotho does not use them.

3.27. In addition to the levies and excise duties provided by the SACU Agreement, Lesotho applies a levy of 2.5% to imported dairy products.[21]

#### 3.1.5.2 VAT

3.28. Lesotho applies VAT to all domestically produced or imported goods and services. The VAT rates did not change during the period under review. Goods are subject to a VAT of 14%, except for alcohol, tobacco and certain agricultural products. Alcohol and tobacco are subject to a rate of 15%, while a zero rate applies to beans, bread, lentils, maize, milk, peas, sorghum, wheat, livestock and poultry feed as well as to agricultural inputs such as fertilizers, seeds, pesticides and fuel.[22] Services are also subject to a VAT of 14%, except for electricity and telephone services, which are subject to a rate of 5%.[23] The VAT on imports is calculated on the basis of the c.i.f. price plus tariff, levies and excise duties. The VAT on local goods and services is applied to the sales price.

3.29. The VAT has to be paid at the Lesotho border, unless the importer has paid the VAT in South Africa and presents the invoice to prove it. In these cases, Lesotho can claim the VAT

[20] Article 48 of the Customs and Excise Act

[21] Article 3 of the Agricultural Marketing (Distribution of Dairy Products) Regulations 1992 (Legal Notice No. 241 of 1992). The levy is applied to the invoice value of the imported dairy product.

[22] Article 5 of the Value Added Tax Act of 2001 (Act No. 9 of 2001). As of February 2014, the Act had been modified only once, in 2003 (Act No. 6 of 2003).

[23] Article 6 of the Value Added Tax Regulations of 2003 (Legal Notice No. 95 of 2003). This instrument was modified twice, once in 2003 (Legal Notice No. 105 of 2003) and then in 2014 (Legal Notice No. 48 of 2014).

amount from the South African Revenue Service (SARS) in accordance with the agreement between SARS and the LRA signed in 2004.

### 3.1.6 Import prohibitions, restrictions and licensing

3.30. Lesotho prohibits or restricts the import of a number of products based on security, health, moral and economic considerations. Import restrictions are mainly governed by the Customs and Excise Act of 1982[24], the Import and Export Control Act of 1984[25], the Import Restrictions Regulations of 1988[26], and the Agricultural Marketing Regulations of 1967[27] and their subsequent legal notices. In 2009, the Import Restrictions Regulations were amended for the first time to include a consolidated list of all goods that required an import permit.

#### 3.1.6.1 Import prohibitions

3.31. The list of prohibited goods for import purposes has not changed since 2008. It includes weapons, drugs, used clothes and shoes (Table 3.1).

**Table 3.1 Prohibited imports, 2015**

| Prohibited goods | Reason for prohibition |
|---|---|
| Carbide of calcium | Health |
| Cigarettes with a mass of more than 2 kilograms per thousand cigarettes | Health |
| Counterfeit money and goods | Security and economic reasons |
| Hazardous waste, chemicals and substances | Security and environment |
| Weapons | Security |
| Indecent or obscene material | Morality |
| Prison-made and penitentiary-made goods | .. |
| Military clothing for sale | Security and economic reasons |
| Illegal drugs and chemicals | Health |

.. Not available.

Source: Section 114 of the Customs and Excise Act 1982 and its amendments, Article 43 of the Drugs of Abuse Act 2008, and Articles 77 and 83 of the Environment Act 2008.

#### 3.1.6.2 Quantitative restrictions

3.32. Lesotho applies quantity controls to milk, sugar, bread, meat, fresh fruit, fresh vegetables, pulses, beans, peas, red meat, poultry and eggs through a system of import permits (see Section 3.1.6.3 and Section 4.1.2). Of these goods, bread, meat, milk, fresh fruit and vegetables do not require a permit if the quantities imported are for consumption purposes and lower than a given amount.[28] The permits are issued by different institutions including the MTI, MAFS and the Lesotho National Dairy Board and are valid for a maximum period of one month, except in the case of dairy products. For dairy products, the permit is valid for a single operation. Permit requirements depend on the product and on the current supply of locally produced goods.

#### 3.1.6.3 Import controls and permits

3.33. Lesotho requires an import permit for a selected number of agricultural and manufactured goods regardless of their origin, and in certain cases only when they originate from outside the SACU area (Table 3.2).[29] During the period under review, the list of goods subject to an import permit remained largely unchanged. The most significant change was the publication in 2009 of a complete (consolidated) list of these goods in the Import Restrictions Regulations. This

[24] The Customs and Excise Act 1982 (Act No. 10 of 1982) and its amendments. The last amendment took place in 1988 (Act No. 21 of 1988).
[25] The Import and Export Control Act 1984 has been modified only once, in 1996 (Act No. 5 of 1996).
[26] The Import Restrictions Regulations of 1988 have also been modified only once, in 2009 (Legal Notice No. 175 of 2009 published in the Gazette on 11 December 2009).
[27] Act No. 26 of 1967.
[28] For bread, the maximum import quantity is 5 loaves per month, for meat it is 10 kg per month, for vegetables or fruit 2 kg per month, and for milk 10 litres per day.
[29] In 2010, Lesotho notified to the WTO a list with the goods subject to an import permit. The list contains most of the goods cited in their legislation: WTO documents G/LIC/N/3/LSO/1, 6 June 2008; G/LIC/N/3/LSO/2, 23 November 2010; and G/LIC/N/1/LSO/1, 23 November 2010.

amendment increases transparency as Lesotho's legislation is fragmented and permit requirements for restricted goods are described in different legal instruments. The list includes mainly agricultural products such as dairy products, sugar, bread, meat, fresh fruit and vegetables but also alcoholic beverages, clothing, vehicles, petroleum fuel and precious stones.

3.34. The permits are issued by different ministries and their requirements and duration vary depending on the product. They apply to imports from all countries, except for clothing, tyres, vehicles and fuel where they apply only to imports from extra-SACU countries; and are in general automatic, except for instance in the case of agricultural products. Indeed, for milk, sugar, bread, meat, fresh fruit, fresh vegetables, pulses, beans, peas, red meat, poultry and eggs, permits are granted depending on the supply of locally produced goods. Permits may be valid for one shipment (e.g. clothing, milk, dairy products and livestock), one year (e.g. petroleum fuel, precious stones and alcoholic beverages), one month (e.g. sugar, bread, fresh fruit and vegetables) or three months (i.e. bank notes, gold securities or foreign currency).[30] Moreover, in most cases importers must hold a trading licence (see Section 2.3.3) to apply for one of these import permits; exceptions were clothing, tyres, vehicles, milk, dairy products and bank notes, gold securities or foreign currency.[31]

**Table 3.2 Goods requiring an import permit/licence, 2015**

| Goods subject to licensing | Legislation | Administrator | Scope of application |
|---|---|---|---|
| 1. Milk and other dairy products | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations – Distribution of Dairy Products (Legal Notice No. 241 of 1992)<br>▪ Agricultural Marketing Regulations – Distribution of Dairy Products 1993 | Lesotho National Dairy Board | All countries |
| 2. Sugar | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations - Import of Sugar, 1989 (Legal Notice No. 176 of 1989) | MTI | All countries |
| 3. Bread | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations - Bread, 2005 (Legal Notice No. 5 of 2005) | MTI | All countries |
| 4. Fresh fruit and fresh vegetables | ▪ Import Restrictions Regulations – Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations 1992 (Legal Notice No. 28 of 1992) | MTI | All countries |
| 5. Pulses, beans and peas | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations - Beans, Peas, Maize and Sorghum 1986 (Legal Notice No. 178 of 1986) | MTI | All countries |
| 6. Red meat | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations, 1992 (Legal Notice No. 141 of 1992) | MTI | All countries |
| 7. Poultry meat and eggs | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Regulations – Egg Control 1969 (Legal Notice No. 35 of 1969) | MTI | All countries |
| 8. Wool and mohair | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Agricultural Marketing Act No. 26 of 1967 | MTI | All countries |
| 9. Livestock and livestock products | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Proclamation No. 57 of 1985 - Importation and Exportation of Livestock and Livestock Products | Ministry of Agriculture and Food Security | All countries |
| 10. Pullets and one day old chickens | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Livestock Disease Proclamation No. 10 of 1896 and its amendments of 1984 | Ministry of Agriculture and Food Security | All countries |

[30] WTO document G/LIC/N/3/LSO/2, 23 November 2010 and information provided by the authorities.
[31] WTO document G/LIC/N/3/LSO/2, 23 November 2010.

| Goods subject to licensing | Legislation | Administrator | Scope of application |
|---|---|---|---|
| 11. Bees | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Livestock Disease Act | Ministry of Agriculture and Food Security | All countries |
| 12. Diamonds and other precious stones, cores and samples of precious stones | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Precious Stones Order 1970<br>▪ Precious Stones (Kimberley Process) Regulations 2003 (Legal Notice No. 66 of 2003)<br>▪ Precious Stone (Prescription of Forms and Licence Fees) Regulations 2004 (Legal Notice 64 of 2004)<br>▪ Precious Stones (Diamond Dealer's Licence Grant and Renewals) Regulations 2004 (Legal Notice No. 160 of 2004) | Ministry of Natural Resources | All countries |
| 13. Clothing (new and used) | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Export and Import Control Act, 1984 (Amended in 1996) | MTI | Extra-SACU countries only |
| 14. Tyres (new and used) | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Export and Import Control Act – Amendment 1996 (Legal Notice No. 5 of 1996) | MTI | Extra-SACU countries only |
| 15. Vehicles (new and used) | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Export and Import Control Act – Amendment 1996 (Legal Notice No. 5 of 1996) | MTI | Extra-SACU countries only |
| 16. Alcoholic beverages (i.e. wines, spirits and beer) | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Liquor Licensing Act 1998 (Act No. 8 of 1998) | Ministry of Tourism, Environment and Culture | All countries |
| 17. Petroleum fuel | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Fuel and Services Control Regulation for Petroleum Fuel 1999 | Ministry of Natural Resources | Extra-SACU countries only |
| 18. Bank notes, gold securities or foreign currency | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Exchange Control Regulations, 1989 (Legal Notice No. 175 of 1989) | Central Bank of Lesotho | All countries |
| 19. Medicines, medical devices, drugs and toxic chemicals | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Dangerous Medicines Act 1973 | Ministry of Health and Social Welfare | All countries |
| 20. Explosives | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009)<br>▪ Internal Security (Arms and Ammunition) Act 1966 | Ministry of Home affairs | All countries |
| 21. Fire arms and ammunitions | ▪ Import Restrictions Regulations - Amendment 2009 (Legal Notice No. 175 of 2009) | Ministry of Home affairs | All countries |

MTI: Ministry of Trade and Industry.

Source: WTO Secretariat based on the information provided by the Lesotho authorities and WTO document G/LIC/N/3/LSO/2, 23 November 2010.

### 3.1.7 Anti-dumping, countervailing, and safeguard measures

3.35. Lesotho has not yet developed any legislation on trade remedies nor established the national body provided for in Article 14 of the SACU Agreement (2002). Therefore the International Trade Administration Commission (ITAC) of South Africa continues to administer trade remedy matters and conduct the related investigations on behalf of Lesotho (see Main Report, Section 3). The authorities indicated that, as of April 2015, Lesotho had never submitted an application to ITAC requiring the application of an anti-dumping, countervailing or safeguard measure.

3.36. Trade remedies are applied only to non-SACU members, except in the case of safeguards to protect infant industries. In this case, a safeguard measure can be introduced individually by any of the BNLS countries instead of the customs union as a whole as long as it is applied to all trading partners. The safeguard measure can be applied for a maximum period of up to eight years[32] and must take the form of an additional duty.[33]

### 3.1.8 Standards and other technical regulations

#### 3.1.8.1 Standards and technical regulations

3.37. Lesotho does not have a national legal and institutional framework for the development of standards, technical regulations and conformity assessment procedures. However since the last Review in 2009, some progress has been made mainly at the institutional level.

3.38. Lesotho is the only country within SACU without a national standards body[34] but in 2014 the Lesotho Standards Institution Act, which provides for the establishment of a Standards Bureau, was finally enacted. The new institution will be in charge of developing and adopting (non-mandatory) national standards in consultation with all relevant stakeholders but will not have any functions regarding technical regulations and conformity assessment procedures. According to the authorities, the new institution is expected to start operating in August 2015.

3.39. Pending the creation of the Standards Bureau, in 2011 Lesotho established three technical committees supervised by the Department of Standards and Quality Assurance of the MTI: one on quality management systems, one on environmental management systems and another on food products. These committees are in charge of developing voluntary standards based on ISO standards. Once the Standards Bureau has been implemented, it will absorb the activities of these committees.

3.40. The authorities also indicated that in 2011 they had begun the development of a national quality policy and technical regulation framework to, *inter alia*, identify and establish the necessary legal and institutional framework in the area of quality infrastructure, and to clarify the responsibilities of each institution. The draft policy was completed in 2014 and it is expected to be approved by the Cabinet by September 2015.

3.41. Regarding the preparation of technical regulations, the authorities indicated that under the current practice each ministry develops its own technical regulations and that there is no harmonized procedure. However, the envisaged quality policy and technical regulation framework will provide ministries with a framework upon which to work. The total number of technical regulations that have been approved by each ministry is unknown.[35]

3.42. Lesotho is member of the SADC Standardization, Quality Accreditation and Metrology (SQAM) programme which aims to harmonize standards and conformity assessment procedures across all member countries.

3.43. In the area of metrology, the main legislation is the Weights and Measures Act of 1970. However, the authorities indicated that the Act has never been implemented as the associated regulations are still to be developed.

3.44. The Department of Standards and Quality Assurance of the MTI is the WTO TBT Enquiry point.[36] Moreover, this department is in charge of all issues related to quality, standardization and conformity assessment infrastructure, such as the establishment of Lesotho's Standards Bureau. The authorities indicated that a new TBT enquiry point had been established in 2014 and launched in February 2015.

3.45. As of June 2015, Lesotho had not submitted any notifications regarding its TBT measures.

[32] Unless otherwise determined by the SACU Council.

[33] Article 26 of the SACU Agreement 2002.

[34] Lesotho has not yet accepted the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards (WTO document G/TBT/CS/2/Rev.21, 23 February 2015).

[35] The authorities indicated that a current study on technical regulations will, once completed, provide some statistics in this regard.

[36] WTO document G/TBT/ENQ/38/Rev.1, 8 July 2011.

### 3.1.8.2 Conformity assessment procedures and product certification

3.46. Lesotho does not have a national accreditation authority; neither does it have any internationally accredited testing and certification bodies. However, Lesotho, like other SADC members, can benefit from the services of the SADC Accreditation Service (SADCAS), which was established in 2005 and approved by the SADC Council of Ministers in 2007. SADCAS is a multi-economy accreditation body whose mission is to provide credible, cost-effective accreditation services to SADC member States, in particular to those member States that do not have a national accreditation body for their laboratories, certification bodies and inspection bodies. As of January 2015, Lesotho had 20 laboratories, which ultimately aim to apply for accreditation.[37]

3.47. Businesses requiring testing services are assisted by the Department of Standards and Quality Assurance on which facilities to use. However, Lesotho businesses wishing to export their products abroad remain dependent on the SABS testing and certification services.

3.48. Lesotho does not have any mutual recognition agreements.[38]

### 3.1.8.3 Labelling and marking

3.49. Lesotho has no specific legislation for product labelling and marking. However, the Weights and Measures Act of 1970 stipulates the manner in which the weight, measure and numbers of an article must be marked on packages and containers. [39]

### 3.1.9 Sanitary and phytosanitary requirements

3.50. Lesotho has no legislation dealing specifically with SPS matters and its institutional framework is not clearly defined. Notwithstanding, during the period 2008-15 Lesotho took some steps towards developing SPS legislation by issuing various policy papers.

3.51. In 2014, the Ministry of Agriculture drafted a phytosanitary policy and a sanitary policy, and the MTI drafted a food safety policy and a quality policy. These policy papers seek in particular to identify the direction in which to move forward and clarify the functions of the different institutions involved in policy making regarding SPS measures. In 2014, the Ministry of Health also completed the draft of a food safety bill which is aimed at improving the food safety situation in the country and at establishing a food authority. This bill if enacted will complement the Public Health Order of 1970 (Order No. 12). Some work has also been undertaken to develop food standards with the establishment of the Committee for Food Products. However, the publication of any final outcomes by this committee will have to wait until the implementation of the Standards Bureau (Section 3.1.8.1).

3.52. It is worth noting that although Lesotho has no legislation dealing with SPS issues, it does have provisions on food safety in its Public Health Order of 1970 (Order No. 12).

3.53. Lesotho has at least four entities dealing with SPS issues. According to the authorities, their functions overlap in many instances thus resulting in the duplication of work. The main four institutions are: (a) the Ministry of Agriculture and Food Security (MAFS), which is responsible for controlling the imports and exports of plants, plant material and animals, as well as transboundary diseases[40]; (b) the Ministry of Forestry, responsible for forest and wildlife products; (c) the Ministry of Health, responsible for inspection activities; and (d) the MTI, responsible for the development of standards and food testing laboratories.

3.54. In 2008, an SPS National Committee was also created, *inter alia*, to advise the government on SPS issues and coordinate policy implementation. The committee is a multi-institutional entity chaired by the MAFS. Private sector representatives are also part of the committee.

[37] Information provided by the authorities.
[38] Information provided by the authorities.
[39] Section 8(2), paragraph (n).
[40] Within the Ministry of Agriculture, these functions are carried out by the Department of Crops, Department of Agricultural Research, and Department of Livestock Services.

3.55. Lesotho's national enquiry point for SPS measures is the Department of Livestock Services of the Ministry of Agriculture and Food Security.[41] Lesotho has not submitted any notifications on SPS measures to the WTO, neither has it notified its national notification authority.

3.56. Lesotho is a member of the Codex Alimentarius[42], the World Organization for Animal Health (OIE) and of the International Plant Protection Convention (IPPC).

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Export procedures and requirements

3.57. Lesotho has taken a few steps to streamline its export procedures since its last Review. The main changes include the introduction of a Preferred Trader Programme and the refinement of the One-Stop Business Facilitation Centre (see Section 3.1.1).

3.58. As for its export requirements, they have largely remained the same since 2008. All exporters must register with the OBFC to obtain an ID that will allow them to conduct part of the clearance process online.[43] All commercial exports must be declared.[44] For exports destined for extra-SACU countries, exporters must submit the following documents in advance to the customs office located within the OBFC: (a) SAD form; (b) commercial invoice; (c) certificate of origin; (d) examination (inspection) certificate, if applicable and e) a foreign exchange control declaration endorsed by an authorized bank (Form F178).[45] For exports destined for SACU countries, exporters must present at the border: (a) the SAD form and (b) the commercial invoice.

### 3.2.2 Export taxes, charges, and levies

3.59. Lesotho applies VAT of 0% to all exports[46], and an export levy of 15% to every diamond found in Lesotho and exported.[47] Besides these taxes, the authorities indicated that there are no other taxes, charges or levies on exports.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.60. Lesotho prohibits the export of certain drugs and chemicals[48], and may prohibit the export of munitions or any good that could be converted into or used to manufacture munitions.[49]

3.61. In addition, Lesotho requires an export permit for cereals, legumes, diamonds, drugs, medicines, weapons, and hazardous waste and substances (Table 3.3). In the case of diamonds, an export permit from the Ministry of Mining is required in addition to the Kimberley Process Certificate delivered by the Commissioner of Mines and Geology of the same ministry.

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[41] WTO document G/SPS/ENQ/26, 11 March 2011.

[42] Since Lesotho does not have its own food standards, Codex standards are used as equivalent to national standards.

[43] Information available on the OBFC website. Viewed at: http://www.obfc.org.ls.

[44] Section 39 of the Customs and Excise Regulations 1982. According to the authorities, customs requirements apply to all exports regardless of their value.

[45] Under the Common Monetary Area (CMA), Form F178 is used by all SACU members, except Botswana. This form is required for all exports destined for outside the SACU area and includes the amount of foreign exchange the exporter expects to receive from the sale of his goods abroad. Once the transaction is completed, the exporter must sell his foreign currency to an authorized bank (Legal Notice No. 175 of 1989: Exchange Control Regulations).

[46] Article 19 of the Value Added Tax Act of 2001 (Act No. 9 of 2001) and its amendments (Act No. 6 of 2003) and Article 6 of the Value Added Tax Regulations of 2003 (Legal Notice No. 95 of 2003).

[47] Precious Stones Order No. 24 of 1970.

[48] Article 43 of Drugs of Abuse Act 2008.

[49] Section 114(5) of the Customs and Excise Act 1982.

**Table 3.3 Goods requiring an export permit, 2015**

| Goods subject to licensing | Legislation | Administrator |
|---|---|---|
| Cereals and legumes (wheat, maize, sorghum, barley, oats, peas and beans) | Agricultural Marketing (Cereal and Legume Export) Regulations 1972 (Legal Notice No. 33 of 1972) | Ministry of Agriculture and Food Security |
| Wool and mohair, hides and skins | Importation and Exportation of Livestock Products Proclamation 1972 (Amendment) Act No. 21 of 1984 | Ministry of Agriculture and Food Security |
| Fish | .. | .. |
| Firearms and explosives | Internal Security (Arms and Ammunition) Act 1966 (Act No. 17 of 1973) | Ministry of Police |
| Drugs and psychotropic substances | Lesotho Dangerous Medicines Act 1973 (Act No. 21 of 1973) | Ministry of Health |
| Medicines | The Medical, Dental and Pharmacy Order 1970 (Order No. 13 of 1970) | Ministry of Health |
| Rough diamonds | Precious Stones (Kimberley Process) Regulations 2003, (Legal Notice No. 66 of 2003)<br><br>Precious Stones (Prescription of Forms and Licence Fees) Regulations 2004 (Legal Notice No. 64 of 2004) | Ministry of Mining |
| Hazardous waste or substances | Environment Act 2008 (Act No. 10 of 2008) | Ministry of Tourism, Environment and Culture |

.. Not available.

Source: WTO Secretariat based on Lesotho's legislation, Lesotho's Trade Portal (www.lesothotradeportal.org.ls) and information provided by the authorities.

### 3.2.4 Export support and promotion

3.62. There are no export processing zones in Lesotho. However, under item 470.03 of the SACU rebate scheme (Section 3.1.4.3), registered companies are exempted from duties on imports of raw materials from outside SACU as long as they use these inputs to produce goods destined for export outside the SACU area. If the final good is exported to the SACU area, exporters must pay the import duties that were initially exempted. In the case of Lesotho this programme is mainly used by garment producers.

3.63. Lesotho does not have a specialized export promotion agency *per se*.[50]

### 3.2.5 Export finance, insurance, and guarantees

3.64. Lesotho does not have an export credit institution but has maintained a Partial Credit Guarantee Scheme since 2011, which is administered by the Lesotho National Development Corporation (LNDC). The Partial Credit Guarantee Scheme was established in 2011 but only started its operations in 2013. It was developed to support exporters' activities and businesses in general, and to promote their participation in global value chains. The scheme provides a 50% guarantee on loans worth up to M 5 million (around US$440,000), and targets all sectors and sizes of business with local shareholding. As of April 2015, four banks participated in this scheme: First National Bank Ltd, NEDBANK Lesotho, Standard Lesotho Bank, and Lesotho Post Bank. Application fees to access the guarantees range from M 500 to M 750 (or US$44 to US$66) depending on the amount of the loan.

3.65. Besides the Partial Credit Guarantee scheme, the authorities indicated that Lesotho does not have any other export finance or guarantee schemes in force.[51]

[50] However, the authorities indicated that the LNDC can conduct some export promotion activities such as trade fairs.

[51] It is worth noting that in May 2012, the Government signed a Memorandum of Understanding with commercial banks to establish a Partial Credit Guarantee Fund (PCGF) of M 50 million, but its implementation was still ongoing (Central Bank of Lesotho, 2012b).

## 3.3 Measures Affecting Production and Trade

### 3.3.1 Incentives

3.66. Lesotho grants fiscal incentives and other support measures administered by the LNDC which focus mainly on investment (see Sections 2.4.2 and 2.4.5).

3.67. Additionally, the authorities indicated that Lesotho promotes regional development through the Joint Bilateral Cooperation Commission with South Africa and through investment promotion programmes to develop value chains within the Southern African Customs Union.

### 3.3.2 Competition policy and price controls

3.68. Lesotho has no competition law and no competition authority. In 2013, Lesotho approved a Consumer Protection Policy, which provides the guidelines for the establishment of the Act.

3.69. According to the authorities, Lesotho applies price controls on a permanent basis only for raw milk, oil products and electricity.[52] Goods such as bread, beans, peas, maize and sorghum can be subject to temporary price controls depending on the market conditions.[53] During the period under review, the authorities indicated that only bread was subject to a price control from 2008 to 2012.

### 3.3.3 State trading, state-owned enterprises, and privatization

3.70. Lesotho has never submitted a notification on state trading enterprises to the WTO.

3.71. As of April 2015, the State held shares in companies in the agricultural, electricity, mining, communications, transport, tourism and banking sectors.

### 3.3.4 Government procurement

3.72. There has been no major change in Lesotho's legal and regulatory framework for government procurement since the last Review. Lesotho's government procurement system is governed by the Public Procurement Regulations of 2007[54], and the main institution responsible for its application continues to be the Procurement Policy and Advisory Division (PPAD) under the Ministry of Finance. As of June 2015, the government procurement regulations were being partially implemented.

3.73. Lesotho is not a party (or observer) to the WTO Agreement on Government Procurement, and none of its trade agreements contain government procurement provisions, except for the EPA with the EU. The provisions on public procurement in this agreement focus mainly on transparency and cooperation.

3.74. The government procurement system in Lesotho is decentralized. Each ministry and government agency has its own procurement unit and tender panel to conduct the proceedings. To assist them in the implementation of the legislation, Lesotho has developed a Government Procurement Manual[55] and a Government Code of Good Practice for Procurement[56], but the process is still ongoing. Government units have the obligation to publish all invitations to tender online and in the mass media.[57] Yet, up-to-date information is not always available online and there is no website compiling the information from all government units. The Public Procurement Regulations of 2007 (Article 53) also provide for the establishment of a national list of approved suppliers, but its implementation is still ongoing according to the authorities. Bidders or contractors (local and foreign) wishing to participate in a tender must register with the unit in

[52] Fuel and Services Control Act 1983 (No. 23 of 1983).
[53] Price Control Act 1979 (No. 4 of 1983).
[54] Public Procurement Regulations 2007 as promulgated by Legal Notice No. 1 of 2007.
[55] Published on 1 January 2007.
[56] Published on November 2006.
[57] Article 22 of the Public Procurement Regulations 2007.

charge of the bid or the PPAD.[58] Each unit will maintain a list of approved suppliers and the PPAD will be responsible for compiling the different lists and maintaining a national database of approved suppliers. Registration will be free, except for contracts worth more than M 100,000 (about US$8,643).[59] The authorities further indicated that a foreign company may still register after tendering and even after being awarded the contract, but must register before any payment takes place.

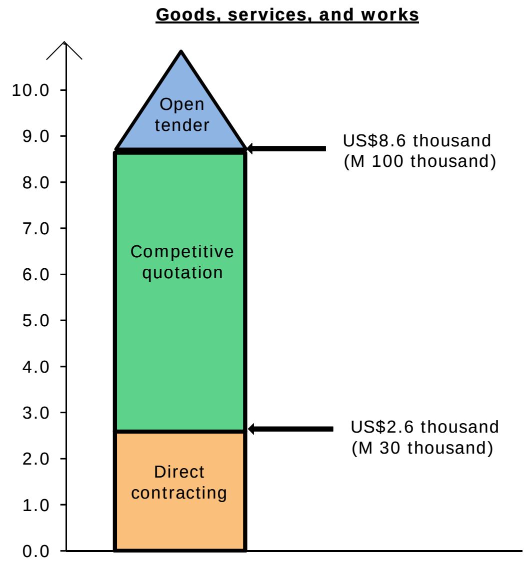
3.75. Foreigners can participate in tender processes without any restrictions.[60] Lesotho has four procurement methods: (a) open tendering, (b) limited tendering, (c) competitive quotation and (d) direct contracting (Table 3.4). The method selected depends on the estimated cost of the goods, services and works to be contracted (Chart 3.1) and is based on specific thresholds. Only limited tendering is not subject to thresholds. According to the legislation, open tendering is the standard method; all three other methods are to be used only in exceptional cases and in accordance with the thresholds when they apply.[61]

### Table 3.4 Procurement methods, 2015

| Procurement method | Characteristics |
|---|---|
| Open tendering | The procurement process is open to all suppliers who wish to participate, regardless of their geographical origin. The tender must include at least three participants. |
| Limited tendering | Under this method, the procurement unit sends an invitation to all businesses with capacity to carry out the contract. This method shall be used only under certain circumstances and requires the pre-qualification screening of the participants. |
| Competitive quotation (or price comparison) | Under this method, the procurement unit will select at least three businesses that meet the conditions for the tender and requests for quotations. The selected contractor will be the one offering the lowest prices by comparing prices. |
| Direct contracting | The contract is granted to one supplier without a competitive process. This method is applied when only one supplier is capable of meeting the requirement. |

Source: Public Procurement Regulations of 2007.

### Chart 3.1 Procurement thresholds, 2015




Note: Exchange rate M/US$ = 11.57 (January 2015).

Source: Public Procurement Regulations 2007, Legal Notice No. 1 of 2007.

58 The status of the registration process does not prevent tenderers from participating in the process.

59 In this case, the fee will range between M 2,000 and M 5,000 at the discretion of the procurement unit depending on the complexity of the documentation and its cost of production (Schedule 1 of the Public Procurement Regulations 2007.)

60 Article 11 of the Public Procurement Regulations of 2007.

61 Article 33 of the Public Procurement Regulations 2007. Data on the use of procurement methods were available for the period under review.

3.76. Lesotho applies a Preference Scheme under which it grants a margin of preference of 15%, 10% or 5% to domestic bidders under certain conditions.[62] The highest margin of preference (i.e. 15%) is granted to companies with a domestic capital of at least 51%. For the other margins, the criteria are as follows: businesses with a domestic capital of (a) 10% to 30% or (b) 30% to 50% are granted a margin of preference of 5% and 10%, respectively. A margin of 10% can also be granted to domestic or international companies when (a) goods are produced in Lesotho; (b) at least 50% of the contract is performed in Lesotho by setting up a company and employing Lesotho nationals during the process; (c) 50% or more is sub-contracted to domestic businesses; (d) the tender uses mainly locally produced goods, materials and services; or (e) the tenderer employs the largest share of local labour.[63] The margins of preferences are non-cumulative.

3.77. The legislation does not provide for any preferential treatment to SMEs for public procurement proceedings.

### 3.3.5 Intellectual property rights

#### 3.3.5.1 Legal and institutional framework

3.78. Lesotho's legal and regulatory framework for intellectual property (IP) did not experience any major changes during the period 2008-15. Lesotho's IP regime is regulated by the Industrial Property Order of 1989 (as amended)[64], its regulations[65], and the Copyright Order of 1989.[66] None of these laws were amended during this period. Lesotho is also bound by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) but as an LDC it may delay the implementation of many of its provisions until July 2021 (Section 3.3.5.2).

3.79. Moreover Lesotho is a member of the World Intellectual Property Organization (WIPO) and is signatory to seven of the 26 agreements administered by this organization.[67] These agreements include the Paris, Berne and Rome Conventions. Lesotho is also a member of the African Intellectual Property Organization.

3.80. At the institutional level, the main entity dealing with IP issues continues to be the Registrar General, which operates under the Ministry of Law and Constitutional Affairs. The Registrar General is responsible for the administration and implementation of IP legislation and is the focal point for all intellectual property issues.

3.81. The Industrial Property Order (IPO) of 1989 (as amended) provides for the protection of (a) patents, (b) utility models, (c) industrial designs, and (d) marks, collective marks and trade names including well known marks (Table 3.5). The Copyright Order (CO) of 1989 protects literary, artistic and scientific works and their transformations (including expressions of folklore), performers, producers of phonograms and broadcasting organizations.[68] In general, copyright protection covers the works of authors who are Lesotho nationals or residents, works first published in Lesotho irrespective of the nationality or residence of their authors, and producers and performers who are Lesotho nationals.[69] Foreign unpublished works and works first published in a foreign country are also protected, provided that the country where the author resides or, in the case of published works, the country of their first publication, grants similar protection to nationals or residents of Lesotho.

3.82. The duration of protection provided for in the IPO 1989 and the CO 1989 are similar to those provided in the TRIPS Agreement and in the Berne Convention, however there are certain

[62] Article 12 of the Public Procurement Regulations 2007.

[63] Article 12 of the Public Procurement Regulations 2007.

[64] Industrial Property Order 1989 (Order No. 5) published in the Gazette on 14 April 1989. It was amended for the last time in 1997 by Act No. 4 of 1997.

[65] Industrial Property Regulations 1989 (Legal Notice No. 85) published in the Gazette on 5 June 1989.

[66] Copyright Order 1989 (Order No. 13) published in the Gazette on 25 August 1989.

[67] These agreements (year of entry into force in parenthesis) are the: Berne Convention (1989), Paris Convention (1989), Rome Convention (1990), Patent Cooperation Treaty (1995), Madrid Agreement (Marks) (1999), Madrid Protocol (1999) and the WIPO Convention (1986). The list of agreements signed by Lesotho can be viewed at: http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=49C.

[68] Articles 3 and 4 of the Copyright Order 1989.

[69] Article 38 of the Copyright Order 1989.

cases such as for performers and phonogram producers, where the duration of protection differs (Table 3.5).

**Table 3.5 Terms of protection, 2015**

| | Duration of the protection under Lesotho's legislation | Duration of protection under TRIPS Agreement |
|---|---|---|
| Patents | 15 years extendable by five years (Article 14 of the IPO 1989). | 20 years (Article 33). |
| Industrial designs | 5 years, extendable for two successive periods of 5 years.<br>(Article 24 of the IPO 1989). | At least 10 years (Article 26). |
| Trade marks (marks, collective marks and trade names) | 10 years, extendable for consecutive periods of 10 years (Article 29 of the IPO 1989). The authorities indicated that the period of protection can be extended only once. | 7 years, renewable indefinitely (Article 18). |
| Utility models | 7 years not renewable (Article 18 of the IPO 1989). | Utility models are not mentioned explicitly in the TRIPS agreement. |
| Copyrights and related rights | In general, works are protected for the life of the authors plus 50 years after his/her death (Article 13 of the CO 1989).<br>Cinematography or audiovisual works are protected for 50 years from the making of the work or 50 years from the date it is made available to the public (Article 13 of the CO 1989).<br>Photographic works or works of applied art are protected for 25 years from the making of the work (Article 13 of the CO 1989).<br>Performers' and broadcasting organizations' rights are protected for 20 years from the end of the year in which the performance/broadcast took place (Articles 24 and 29 of the CO 1989).<br>Producers of phonograms are protected for 20 years computed from the end of year in which the phonogram was published for the first time (Article 26 of the CO 1989). | The Berne Convention (Article 7) as incorporated into the TRIPS Agreement provides that the term of protection shall be the life of the author and 50 years after his death (Articles 2 and 9).<br>When the term of protection is calculated on a basis other than the life of a person, the duration of protection would be of at least 50 years from the end of the calendar year of authorized publication, or from the making of the work, or from the end of the calendar year of making it. This applies for works other than photographic works or works of applied art (Article 12).<br>Performers and producers of phonograms are protected for 50 years; and broadcasting organizations for 20 years (Article 14.5). |

Source: WTO Secretariat based on Lesotho's Legislation and the TRIPS Agreement.

3.83. In addition, both legal instruments allow compulsory licensing.[70] Under the CO 1989 (Articles 11 and 16), the use of works is permitted even without authorization by the author, provided the user of the works has a licence accorded by the Minister and complies with certain conditions. Under the IPO 1989 (Article 15), the Registrar can grant a non-voluntary licence to any person who proves his/her ability to work a patented invention if the patented invention is not worked or is insufficiently worked in Lesotho. The authorities indicated that to date these provisions have not been used.

3.84. With respect to enforcement, both the IPO 1989 and the CO 1989 provide for civil and criminal sanctions. Under the IPO 1989 (Article 43), any person who infringes the law is liable to a fine of M 10,000 (about US$833) or to imprisonment for a period of 10 years or to both.[71] Under the CO 1989 (Articles 36 and 37), any person whose rights are in danger of being infringed or have been infringed can refer their case to a court of competent jurisdiction. The sanctions for violating the law include fines and/or imprisonment that vary depending on the type of infringement. The standard sanction consists of a fine of M 12,000 (about US$1,000) and/or imprisonment for five years. This is also the highest sanction, the lowest being a fine of M 1,000 (about US$83) and/or imprisonment for three months.

[70] Compulsory licensing refers to the situation where a government allows someone else to produce the patented product or process without the consent of the patent owner.
[71] Article 43 of Industrial Property Order 1989 (as amended).

#### 3.3.5.2 Lesotho and the TRIPS Agreement

3.85. Lesotho's regulatory framework is also governed by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). As an LDC, Lesotho continued to benefit during the period reviewed from special and differential treatment allowing it to delay the application of certain provisions of the TRIPS agreement.

3.86. In June 2013, LDCs were granted a second extension to delay the application of Article 66.1 of the TRIPS agreement until July 2021.[72] The first extension expired in July 2013. In accordance with this extension, Lesotho, as an LDC, has to apply the TRIPS provisions on non-discrimination (Articles 3, 4 and 5 of the TRIPS Agreement) but has the flexibility to apply or not the rest of its provisions for the protection of intellectual property rights, including those related to trademarks, patents, copyright, industrial designs, geographical indications or any others covered by the agreement. This extension covers all products and has no effect on the WTO decision[73] and waiver[74] of 2002 that have been applied in parallel to LDCs with respect to the application of certain TRIPS provisions for pharmaceutical products and that will continue to apply until January 2016.

3.87. Lesotho has not ratified the Protocol amending the TRIPS agreement and therefore continues to be covered by a WTO waiver granted in 2005 for this purpose.[75]

3.88. The authorities indicated that Lesotho requires technical assistance on IPR issues, in particular to train officials on the implementation and enforcement of the TRIPS Agreement, strengthen the copyright office, and establish copyright management organizations.

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[72] WTO document IP/C/64, 12 June 2013.

[73] WTO documents WT/MIN(01)/DEC/2, 20 November 2001 and IP/C/25, 1 July 2002. Under this decision, LDCs are not obliged to apply Sections 5 and 7 of Part II of the TRIPS Agreement with respect to pharmaceutical products, and therefore to protect pharmaceuticals patents and test data until January 2016.

[74] WTO document WT/L/478, 12 July 2002. This waiver refers to the application of article 70.9 of the TRIPS Agreement and supplements the WTO Decision of 2002 regarding pharmaceutical products. The waiver exempts LDCs from having to grant exclusive marketing rights in relation to an existing pharmaceutical patent until January 2016.

[75] Decision of 6 December 2005 (WTO document WT/L/641, 8 December 2005). According to the General Council Decision of 26 November 2013 (WTO document WT/L/899, 27 November 2013) the deadline for members for ratification is 31 December 2015. Once two thirds of members have formally accepted it, the amendment will take effect and will replace the 2003 waiver for those members (WTO document WT/L/540, 2 September 2003 and WT/L/540/Corr.1, 29 July 2005). For the remaining members, the waiver will continue to apply until the amendment is accepted and takes effect.

# 4 TRADE POLICIES BY SECTOR

## 4.1 Agriculture

### 4.1.1 Overview

4.1. Although the performance of the agricultural sector has deteriorated over the years, agriculture remains the main economic activity and source of employment in Lesotho (Table 4.1). In 2013, it accounted for 6.4% of Lesotho's GDP (Table 4.1.), compared to 7.9% in 2008 and 16.4% in 2003.[1] This was the third largest contribution after manufacturing (12.2%) and construction activities (9.5%), when services are excluded. Moreover, agriculture accounted for 20.1% of total exports and 23.6% of imports in 2012. According to the authorities, about 70% of Lesotho's food requirements are imported, which reflects the limits of its production capacity and the effects of recurrent unfavourable climate conditions. Together with poverty reduction, food security remains one of Lesotho's major challenges.

**Table 4.1 Agriculture[a] in the economy, 2008-13**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|
| Contribution to GDP (%)[b] | 7.9 | 7.1 | 7.4 | 7.2 | 6.4 | 6.4 |
| Of which farming of animals contributed to GDP (%)[b] | 5.4 | 4.8 | 4.4 | 4.3 | 4.2 | 4.0 |

a Agricultural activities include the growing of crops, horticulture, the farming of animals and agricultural service activities. Data on employment was not available.
b At 2004 constant basic prices.

Source: Lesotho Bureau of Statistics and data provided by the authorities.

4.2. The main activities in this sector comprise crop and animal farming, the latter being the main source of income (4% of GDP in 2013). Lesotho covers an area of about 3 million hectares (or 30.3 thousand km$^2$), of which 11% is arable. Its main food crops are maize, sorghum and wheat. Maize and sorghum occupy about 60% and 20% of the arable land, respectively and are grown in summer (October to April of the next calendar year). Wheat occupies about 10% of the arable land and is harvested in the winter (i.e. May to September). The livestock sector is dominated by sheep and goats which are valued mainly for their wool and mohair. These products are among Lesotho's main agricultural export goods, and accounted for about 5.2% of total exports in 2012 (Table A1.1).

4.3. During the period under review, the agricultural sector stagnated mainly as a result of heavy rains and floods in 2010 and at the beginning of 2011. The floods damaged infrastructure (roads and sanitation) and resulted in a decline of both crop and livestock production (Table 4.2). Maize, sorghum and wheat were the most affected crops, together with beans, according to the Ministry of Agriculture and Food Security. As for livestock, cattle, sheep and goats were the main animals affected. They died from drowning or were infected with diseases.[2]

4.4. Following the floods, Lesotho also registered a temporary increase in its food imports from 22.9% of total imports in 2010 to 26.6% in 2011 (Table A1.2). The following year food imports went down again accounting for 23.5% of the total.

**Table 4.2 Main indicators for maize, wheat and sorghum, 2008-14**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| **Maize** | | | | | | | |
| Production (metric tonnes) | 59,651 | 57,126 | 128,213 | 73,390 | 42,471 | 86,325 | 90,072 |
| Area planted (hectares) | 146,862 | 141,862 | 151,717 | 153,348 | 97,711 | 114,543 | 145,665 |
| Yield (metric tonnes/hectare planted) | 0.435 | 0.416 | 0.91 | 0.63 | 0.53 | 0.82 | 0.68 |
| **Sorghum** | | | | | | | |
| Production (metric tonnes) | 10,189 | 10,515 | 23,830 | 9,606 | 4,673 | 20,405 | 9,844 |
| Area planted (hectares) | 36,572 | 19,090 | 35,614 | 28,296 | 14,151 | 24,661 | 24,121 |
| Yield (metric tonnes/hectare planted) | 0.287 | 0.598 | 0.72 | 0.51 | 0.41 | 0.89 | 0.45 |

[1] WTO document WT/TPR/S/222/LSO/Rev.1, 14 December 2012.
[2] Lesotho Agricultural Situation Report 2010/2011 to 2012/2013.

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| **Wheat** | | | | | | | |
| Production (metric tonnes) | 2,411 | 4,901 | 1,032 | 20,065 | 10,516 | 12,624 | 12,583 |
| Area planted (hectares) | 15,522 | 21,500 | 3,345 | 20,436 | 12,170 | 9,908 | 14,233 |
| Yield (metric tonnes/hectare planted) | 0.157 | 0.229 | 0.473 | 1.00 | 0.86 | 1.27 | 0.91 |

Source: Lesotho Agricultural Situation Report 2010/11 to 2012/2013 by the Ministry of Agriculture and Food Security, Bureau of Statistics and the Ministry of Development Planning.

### 4.1.2 Agricultural policy

4.5. The Ministry of Agriculture and Food Security (MAFS) is the main government institution responsible for agricultural policy formulation and implementation. Lesotho's main objective is to develop agriculture to ensure its food security, increase the sector's contribution to GDP and promote job creation. MAFS is also responsible for the control of importation and exportation of agricultural products to/from Lesotho, and for the issuance of sanitary and phytosanitary certificates and import permits.

4.6. During the period under review, Lesotho introduced a few reforms affecting the agricultural sector. The most significant is one relating to the land system (Section 2.3). In 2010, Lesotho enacted a new Land Act[3], which repeals the Land Act of 1979[4] and allows foreigners to hold land titles as long as they have a local partner that owns at least 20% of the company.[5] Prior to this reform, only Lesotho nationals could hold a land title.[6] In 2010, Lesotho also established the Land Administration Authority (LAA)[7] to centralize the administration of all land-related issues under one single entity. The LAA replaces the rural and urban land committees, which were responsible for the allocation of land, as well as other existing departments within MAFS that were involved in land administration. The authorities indicated that the LAA was already in operation.[8]

4.7. Besides unpredictable weather conditions, farmers face several constraints that inhibit the expansion of agricultural production. These constraints include limited access to finance, agricultural inputs (due to their high cost) and technology, as well as poor integration into supply chains. With a view to improving agricultural performance, Lesotho envisages various strategies such as the development of water and irrigation infrastructure and the transformation of agricultural institutions.[9] In addition, Lesotho supports farmers through the Intensive Crop Production (ICP) Programme, which was introduced in the 2012/13 financial year following the 2011 floods to boost cereal production.[10] This programme has three components and costs 35.6% of the total budget allocated to MAFS.

4.8. The first component consists in a sharecropping system between the government and the owners of the fields under which all production costs (e.g. seeds, fertilizers and mechanical operations) are incurred by the Government, while farmers provide the land and labour. In 2012/2013 the production sharing ratio was 70% by the Government and 30% by the field owners. This ratio was revised in 2013 and is now 60% by the Government and 40% by the field owners. The Government will sell its production to private mills at market prices. The sharecropping system is mainly used for maize, but also sorghum, wheat, beans and peas.

4.9. The second component of the ICP programme consists in the distribution to farmers of seeds and fertilizers at subsidized prices. Under this component, the Government, through MAFS, buys seeds and fertilizers at market prices and then distributes them through contracted vendors to farming households countrywide at half price. Subsidized seeds included maize, beans and wheat. This scheme was notified to the WTO in 2013.[11]

[3] Land Act 2010 (Act No. 8 of 2010) published in the Gazette on 14 June 2010.
[4] Land Act 1979 (Act No. 17 of 1979) published in the Gazette on 15 November 1979.
[5] Article 6(c) of the Land Act 2010.
[6] Article 6(a) of the Land Act 1979.
[7] Land Administration Authority Act 2010 (Act No. 9 of 2010) published in the Gazette on 14 June 2010.
[8] Article 28 of the Land Act 2010.
[9] Lesotho's National Strategic Development Plan 2012/13-2016/17.
[10] Information provided by the authorities.
[11] WTO document G/AG/N/LSO/4, 11 October 2013.

4.10. Under the third component of the ICP programme, the Government, which owns and operates the machines, provide its services to farmers at a subsidized price, which corresponds to a 50% rebate.

4.11. In addition, Lesotho conducts one-off interventions depending on weather conditions. During the period under review, Lesotho carried out this type of intervention twice, once in 2009/10 and again in 2010/11. These interventions consisted in a voucher system under which famers that qualified as vulnerable people received a voucher worth M 810 (around US$70) to buy seeds and fertilizers. According to the authorities, 2011 was the last time this type of intervention was used.

4.12. In addition to these programmes, Lesotho maintains one partial credit guarantee scheme targeting all sectors, including commercial agriculture (see Section 3.2.5). The scheme provides farmers with a 50% guarantee on loans worth up to M 5 million (US$440,000). According to the authorities, there is no specific credit scheme targeting agriculture alone.

4.13. During 2008-15, Lesotho also launched a programme for the construction of woolsheds within the country to facilitate the harvesting of wool and mohair. The project began in the 2012/13 financial year and it accounted for 2% of the budget allocated to MAFS for the 2014/15 financial year. The authorities indicated that besides this programme and the ICP there were no other support programmes established on a permanent basis.

4.14. Raw milk is subject to price controls, which are determined by the Lesotho National Dairy Board (LNDB) in accordance with the average purchasing power of a typical household. In addition to this mechanism, the authorities indicated that Lesotho can apply temporary price controls to other food commodities depending on weather and market conditions. During the period under review, Lesotho introduced temporary price controls only for bread. The intervention ran from 2008 to 2012. In addition, certain agricultural goods and inputs are subject to a zero-VAT rate; these include beans, bread, lentils, maize, milk, peas, sorghum, wheat, livestock and poultry feed as well as fertilizers, seeds, pesticides and fuel.[12]

4.15. Lesotho also maintains different types of regulations affecting agricultural imports and exports. In 2014, the average applied MFN tariff (CET) for agriculture (WTO definition) was 9.9%. A number of agricultural products, such as milk, wheat and meat are subject to non-*ad valorem* tariffs (Main Report, Section 3), while the bindings took the form of *ad valorem* rates and stood at 200% for agricultural products.

4.16. Lesotho notified to the WTO that it did not provide any export subsidies to agricultural products over the period 1996-2013.[13]

4.17. Lesotho requires a permit on all imports of certain agricultural goods, including those originating in SACU countries. During the period under review, the list of goods subject to an import permit remained largely unchanged (Sections 3.1.6.2 and 3.1.6.3). The list includes beans and peas, bread, dairy products, eggs, fruit, sugar, maize, meat and vegetables.[14] These permits are issued by different institutions including the MTI, MAFS and the Lesotho National Dairy Board, and are valid for one month, except in the case of dairy products. For dairy products, the permit is valid for a single operation. Permit requirements depend on the product and on the current supply of locally produced goods. Of these goods, bread, meat, vegetables, fruit and milk do not require a permit if they are imported for private consumption.[15]

4.18. Additionally, Lesotho applies two country-specific rebates under the SACU Agreement: one for wheat (tariff line HS 1011) and another for dairy products (tariff line HS 04) (see Main Report).

[12] Article 5 of the Value Added Tax Act of 2001 (Act No. 9 of 2001). As of June 2015, the Act had been modified only once, in 2003 (Act No. 6 of 2003).
[13] WTO documents G/AG/N/LSO/1, 25 November 2010; G/AG/N/LSO/2, 15 January 2013; and G/AG/N/LSO/3, 10 October 2013.
[14] Agricultural Marketing Act 1967 (Act No. 26 of 1967).
[15] For bread, the maximum import quantity is 5 loaves per month, for meat it is 10 kg per month, for vegetables or fruit 2 kg per month, and for milk 10 litres per day.

4.19. The export of wool, mohair, hides, skins and livestock also requires a permit.[16] In the case of wool and mohair, the export permit is issued provided that the product has undergone veterinary inspection and obtained the respective permits (i.e. district veterinary permit and master permit).[17] Livestock is subject to the same export procedures as wool and mohair but according to the authorities its exportation is less common. For hides and skins, the export permit is also granted by MAFS provided that the product has undergone veterinary inspection and obtained a veterinary health certificate.[18] The export permits are issued by MAFS and are valid for one year or less.

4.20. The dairy sector is subject to particular controls and governed by two main institutions, the Lesotho National Dairy Board (LNDB) and Lesotho Dairy Products (LDP). The LNDB is a parastatal entity responsible for regulating the sector. Its functions include the determination of the prices for raw milk and the administration of the permit and licence system for the sale, distribution, import or export of dairy products.[19] The LDP, a private company according to the authorities, is the only company with a licence to process (e.g. milk pasteurization) and distribute milk and milk products.[20] To import dairy products traders required, in addition to the import permit issued by the LNDB, an SPS permit issued by the Department of Livestock Services. Moreover, imported dairy products are subject to a levy of 2.5% of their invoice value. Only LDP can import raw milk for commercial purposes (i.e. above the quantity limits established for private consumption).

4.21. In the livestock industry, any licensed entity can import livestock according to the authorities. During the period under review, the Government subleased the national abattoir, which had been closed since 2000, to the Meraka Lesotho (Pty) Ltd.[21] The Meraka abattoir is a new company which started its operations in June 2014 and is the only abattoir for commercial purposes in Lesotho. The Meraka abattoir slaughters sheep and cattle and supplies meat to local meat dealers.[22]

## 4.2 Mining and quarrying

4.22. The mining and quarrying sector in Lesotho is dominated by diamonds and accounts for the fourth largest economic activity in the country (6% of GDP in 2013), when services are excluded. During the period 2008-15, there were some changes in Lesotho's legislation for the mining sector, but there were no significant changes to conditions for foreign investors. In general, there are no restrictions on foreign ownership, except for small-scale mining which is reserved for Lesotho nationals and for large-scale mining where the Government reserves the right to acquire at least 20% of the capital.

4.23. At the institutional level, the main change was the establishment of the Ministry of Mining.

### 4.2.1 Overview

4.24. The mining and quarrying sector in Lesotho is dominated by diamonds, which according to the authorities accounts for about 99% of the sector's revenues, the rest being attributed mainly to clay production. Given the country's geological characteristics, it seems there is also potential for coal, uranium and semi-precious stones. During the period under review, the contribution of the mining sector to Lesotho's GDP increased from 4.3% in 2008 to 6% in 2013 despite fluctuations in diamond production and exports.

4.25. In 2008-10, the production of diamonds, as well as exports, fell but recovered in the following years (Tables 4.3 and A1.1). The decline in production was to a large extent due to the global economic crisis which caused a fall in global demand for diamonds and in its prices. Diamond exports consist of rough diamonds only, as there is no diamond polishing industry in

[16] Information provided by the authorities.
[17] The district veterinary permit is issued by district veterinarians and the master permit is issued by the Department of Livestock Services (DLS) of MAFS.
[18] The Veterinary Health Certificate is issued by the Department of Livestock Services of MAFS.
[19] Article 3 of the Agricultural Marketing (Distribution of Dairy Products) Regulations 1992 (Legal Notice No. 241) published in the Gazette on 2 October 1992.
[20] The authorities indicated that for the distribution of milk and milk products, the LDP has contracted a distributor.
[21] The slaughter facility continues to be owned by the Government.
[22] Information provided by the authorities.

Lesotho. In 2014, diamond mines employed about 2,000 workers and the authorities expect that this number will increase to 3,000 by 2017.[23]

### Table 4.3 Mining indicators, 2008-14

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| % contribution of mining and quarrying to GDP (constant prices) | 4.3 | 5.1 | 4.9 | 5.6 | 6.6 | 6.0 | .. |
| Diamond production (thousand carats) | 253 | 92 | 109 | 224 | 480 | 414 | 320 |
| Number of employees in diamond mines | 1,298 | 1,076 | 1,382 | 1,469 | 2,331 | 1,689 | 2,055 |

.. Not available.

Source: Data provided by the authorities.

4.26. The diamond sector comprises six major mines under leases (i.e. Letseng, Kao, Kolo, Liqhobong, Lemphane and Mothae)[24], each managed by a different company. All mines are jointly owned by the State and a foreign company. As of June 2015, there were seven foreign companies operating, in which state participation ranged from 20% to 30%. Of these companies, five[25] were granted leases during the period 2008-15.[26]

### 4.2.2 Policies

4.27. Lesotho's mining sector is mainly governed by the Mines and Minerals Act of 2005 (as amended)[27], Precious Stones Order of 1970[28] and the Mine Safety Act of 1981.[29] During the period under review, only the Mines and Minerals Act 2005 was amended. The Mines and Minerals Act 2005 regulates the exploration, licensing and exploitation of minerals. It was amended for the first time in 2014[30] to extend the powers of the Minister, who can now suspend or cancel a mineral concession when: (a) mining operations do not start within 12 months of the issuance of the lease; (b) mining activities are stopped for two years; or (c) prospecting activities do not start within six months of the date of issuance of the prospecting licence.

4.28. The Mines and Minerals Act 2005 is complemented by the Precious Stones Order 1970 which focuses on the extraction, export and sale of rough precious stones. Under these legal instruments, companies (local and foreign) wishing to engage in mining activities, require a licence. Both instruments also include specific provisions for uncut diamonds, which are subject to registration in addition to a licensing system for their exploitation and trading. All diamonds bought or imported into Lesotho must be registered.

4.29. The Mine Safety Act 1981 provides for safety, health and environmental conditions in the mining industry. In addition to these laws, the following regulations also apply: the Precious Stones Regulations of 2004 regarding the diamond licensing regime[31], the Precious Stone Regulations of 2004[32], which establish the forms and licence fees, and the Precious Stones Regulations of 2003, which define the certification process under the Kimberly Agreement.[33] As a member of the Kimberley Process Certification Scheme, Lesotho requires a Kimberley Process Certificate for diamond exports (Section 3.2.3). Additionally, diamond exports are subject to a permit from the Ministry of Mining and a sale tax of 15% (Sections 3.2.2 and 3.2.3). Imports of diamonds are subject to a tariff of zero. The average CET in mining and quarrying was 0.1% in 2014 with rates ranging between zero and 10% (Main Report, Table 3.4). All tariffs in this product category are *ad valorem*.

[23] Central Bank of Lesotho (2012a).
[24] According to the authorities, Letseng and Kao are operating at full capacity.
[25] The new leases (excluding renewals and transfers) were granted to: (a) Reskol Mining (Pty) Ltd, (b) Liqhobong Mining Development Company (Pty) Ltd, (c) Meso Diamonds (Pty) Ltd, (d) Snow Ridge Prospecting (Pty) Ltd and (e) Mothae Diamonds (Pty) Ltd.
[26] Information provided by the authorities.
[27] Mines and Minerals Act 2005 (Act No. 5 of 2005) published in the Gazette on 4 April 2005. The Mines and Minerals Act has been amended only once in 2014 (Legal Notice No. 7 of 2014).
[28] Precious Stones Order 1970 (Act No. 24 of 1970).
[29] Mine Safety Act 1981 (Act No. 4 of 1981) published in the Gazette on 24 July 1981.
[30] Mines and Minerals Act (Amendment) 2014 (Legal Notice No. 7 of 2014).
[31] Stones Regulations of 2004 (Diamond Dealer's Licence Grant and Renewals) (Legal Notice No. 160 of 2004).
[32] Precious Stones (Prescription of Forms and Licence Fees) Regulations 2004 (Legal Notice 64 of 2004).
[33] Precious Stones (Kimberly Process) Regulations 2003 (Legal Notice No. 66 of 2003).

4.30. The Ministry of Mining is the main entity responsible for the mining sector. It was established in 2012. Prior to this date, the sector was regulated by the Department of Mining of the Ministry of Natural Resources. In 2014, the new Ministry of Mining developed a mining and mineral policy, which provides a roadmap to develop mineral resources in Lesotho. This policy paper highlights the challenges for the sector, including the amendment of the current legislation which, according to the authorities, is limited in scope and lacks the latest governance standards.

4.31. Another important entity is the Mining Board and the Commission of Mines and Geology in the Ministry of Mining.[34] The Mining Board is responsible for the issuance of authorizations to both local and foreign investors to conduct activities in the mining sector. It is chaired by the Principal Secretary of the Ministry of Mining and consists of representatives of, *inter alia*, the Ministry of Finance and Chamber of Commerce. The functions of the Commissioner of Mines and Geology include ensuring the application of the legislation and conducting inspections of mining premises and operations. The Commissioner is an officer of the Ministry of Mining.

4.32. All natural resources, including mines belong to the State, which can grant licences for their exploitation. Under the Mines and Minerals Act of 2005, Lesotho can grant the following authorizations to conduct activities in the mining sector: (a) a prospecting licence to conduct mineral exploration; (b) a mining lease to conduct mining extraction and production on a large scale and (c) a mineral permit to conduct small-scale mining activities. Application for all three authorizations must be submitted to the Mining Board through the Commissioner.

4.33. The prospecting licence is valid for the prospection of a given mineral and for a maximum period of two years and can be renewed for one more year, unless otherwise provided for by the Minister.[35] If the holder of a prospecting licence discovers a mineral, he/she cannot remove it unless he/she has a mining lease.

4.34. The mining lease can be granted for a maximum period of 10 years and renewed for another 10 years. To apply for a mining lease, investors must first obtain an environmental impact assessment (EIA) licence from the Department of Environment in the Ministry of Tourism, Environment and Culture. There are no specific restrictions on foreign ownership but the Government reserves the right to acquire at least 20% ownership in any large-scale mine.[36] The terms and conditions governing a mining lease for diamonds are subject to individual negotiations and therefore established on a case-by-case basis.[37] Negotiations take place with the Mining Board on all the aspects of the lease. Investors may also negotiate with the Ministry of Finance on the related tax conditions. This system does not ensure transparency and predictability as tax conditions are not uniform and are selectively applied.[38]

4.35. A mineral permit is required to conduct small-scale mining on less than $100m^2$ for any mineral other than diamonds. Mineral permits are only granted to Lesotho nationals. The permit is valid for a maximum period of one year, renewable for another year.[39]

4.36. In general, mining companies are exempted from sales tax on capital during exploration and construction and royalties are set at between 6% and 8%.[40] However, since mining leases are established on a project-by-project basis in particular for diamonds, the fiscal conditions and incentives can vary.

## 4.3 Energy sector

4.37. During the period under review, Lesotho continued to experience an energy deficit and showed overdependence on imports from South Africa. Lesotho has no known oil, gas or coal reserves, thus all petroleum products (petrol, diesel, paraffin and LP gas) and coal are imported from South Africa. Water is in relative abundance and thus there is strong potential for the

[34] Articles 6 and 12 of the Mines and Minerals Act 2005.
[35] Article 24 of the Mines and Minerals Act 2005.
[36] Articles 33-36 of the Mines and Minerals Act 2005.
[37] Article 44 of the Mines and Minerals Act 2005.
[38] Information on the leasing conditions for other precious stones or minerals was not available.
[39] Articles 46-48 of the Mines and Minerals Act 2005.
[40] Information provided by the authorities.

generation of electricity. However, the current infrastructure is very limited and Lesotho has been obliged to import power from Mozambique and South Africa.

4.38. The energy sector is administered by the Ministry of Energy, Meteorology and Water Affairs (which until 2012 was known as the Ministry of Natural Resources) through the Department of Energy (DOE). The DOE is responsible, *inter alia*, for establishing the regulatory framework for the energy sector, developing energy resources and ensuring security of energy supply. The DOE also coordinates among the different private and institutional players in the electricity and petroleum sector.

4.39. During the period reviewed, there were a number of changes affecting mainly the institutional framework of the electricity and water sector. In 2010, the Water and Sewerage Authority (WASA), which used to be the water regulator and services provider, became the Water and Sewerage Company (WASCO), which does not have a regulatory function. In 2011, the regulatory functions of the former WASA were absorbed by the Lesotho Electricity Authority (LEA) which became the Lesotho Electricity and Water Authority (LEWA).

4.40. There was no information available on the petroleum sector.

### 4.3.1 Water and electricity sectors

4.41. Lesotho continues to experience an energy deficit and electrification in the country remains limited, in particular in rural areas. In 2012, the electrification rate in Lesotho stood at 24% of the 436,238 households; that is about 5% of the rural households and 65% of the urban households. For 2015, the target for electrification is 35% of the total households and 40% for 2020.[41] According to the authorities, the electrification target of 35% was achieved in 2014.[42] During the period 2008-15, the legal and in particular the institutional framework for water and electricity sectors was subject to some changes.

4.42. The water and electricity sectors in Lesotho are mainly governed by the Water Act 2008[43] which regulates the management, protection, conservation and use of water resources.[44] In addition to this legal instrument, since 2009 Lesotho has developed a number of regulations and rules regarding for instance licence applications (2012)[45], licence fees (2009 and 2013)[46], electricity prices (2009)[47] and the resolution of disputes[48] to improve transparency and predictability in these sectors.

4.43. At the institutional level, Lesotho also made a number of reforms which resulted in the establishment of a single regulator called the Lesotho Electricity and Water Authority (LEWA). Until 2010 and 2011, the regulators of the water and electricity sectors were respectively the Water and Sewerage Authority (WASA) and the Lesotho Electricity Authority (LEA). The WASA was a parastatal, which was responsible not only for regulating the sector but also for water treatment. In 2010, Lesotho transformed the WASA into a state-owned company without regulatory functions called the Water and Sewerage Company (WASCO)[49]; and in 2011 it extended the regulatory powers of the LEA to urban water and sewerage services[50], thus converting the LEA into a multi-sector regulator, the LEWA.[51] Additionally, in April 2011 Lesotho established the Lesotho Electricity Generation Authority to develop, implement and operate electricity generation projects

[41] United Nations Economic Commission for Africa (2012).
[42] Lesotho Electricity and Water Authority (2014).
[43] Water Act 2008 (Act No. 15 of 2018) published in the Gazette on 30 December 2008.
[44] There is also a Lesotho Water and Sanitation Policy which was issued in 2007.
[45] Lesotho Electricity Authority (Application for Licences) Rules 2012 (Legal notice No. 38 of 2012) published on 8 June 2012.
[46] LEA (Licensee Fees and Levies) Regulations 2009 (Legal Notice No. 135 of 2009) and LEWA (Licence Fees and Customer Levies for Water and Sewerage Services) Regulations 2013 (Legal Notice No. 140 of 2013).
[47] LEA (Electricity Price Review and Structure) Regulations 2009 (Legal Notice No. 136 of 2009).
[48] LEA (Resolution of Disputes) Rules 2010 (Legal Notice No. 34 of 2010) and LEWA (Resolution of Complaints for Water and Sewerage Services) Rules 2013 (Legal Notice No. 102 of 2013).
[49] Water and Sewerage Company (Proprietary) Limited (Establishment and Vesting Act, 2010) (Act No. 10 of 2010) published in the Gazette on 3 August 2010.
[50] Amendment of 2011 of the Lesotho Electricity Authority (LEA) Act, published in the Gazette on 1 March 2011. The Lesotho Electricity Authority Act 2002 (Act No. 12 of 2002) has been amended only twice, in 2006 and 2011.
[51] Article 3 of the Lesotho Electricity Authority (Amendment) Act 2011.

(solar, wind, hydro and biomass) to supply Lesotho and the Southern African region in general. In the same year, it also established a universal access fund managed by the LEWA to develop and expand the electricity services infrastructure. The fund is financed by the electrification levy collected by the Lesotho Electricity Company (LEC) and according to the authorities it has already financed 10 electrification projects since 2011.[52]

4.44. The LEWA started to officially regulate both electricity (i.e. generation, transmission, distribution, supply and trade) and urban water and sewerage services in May 2013. The LEWA issues operators' licences and determines the conditions to enter and operate in the market, as well as consumer prices. As of April 2015, LEWA had granted licences to three operators: (a) the Lesotho Electricity Corporation (LEC), (b) the Lesotho Highlands Development Authority (LHDA) and (c) the Water and Sewerage Company (WASCO).[53] All three operators are state-owned companies and each maintains a monopoly in its respective sector.[54]

4.45. The LEC and the LHDA dominate the electricity supply industry in Lesotho. The LEC is the only transmitter, distributor and supplier of electricity in Lesotho, and the LHDA is the main power generator through its Muela Hydro Power (MHP) Station at Katse Dam. At a rated capacity of 72 MW, this station sells all the energy it produces to the LEC, but can also export small amounts to South Africa. In 2014, the average electricity selling price to LEC stood at M 0.11/kWh and the MHP Station exported less than 1% of the energy to South Africa at an average price of M 0.21/kWh.[55]

4.46. The energy produced by the MHP Station is complemented by two mini-hydro plants (Semonkong and Mantsonyane). To fill the energy deficit, which ranged between 41% and 51% during the period 2008-2013, power was imported from Mozambique (EDM) and South Africa (ESKOM) (Table 4.4). In 2013-2014, LEC bought 515.12 GWh of energy from the MHP Station and imported 285 GWh from Mozambique and South Africa.[56]

**Table 4.4 Demand and supply of hydropower, 2008-13**

| | Maximum demand (MW) | Installed capacity (MW) | Imported capacity (MW) |
|---|---|---|---|
| 2008 | 122.5 | 72 | 50.5 |
| 2009 | 133.4 | 72 | 61.4 |
| 2010 | 138 | 72 | 66 |
| 2011 | 141.7 | 72 | 69.7 |
| 2012 | 147.6 | 72 | 75.6 |
| 2013 | 143 | 72 | 71 |

Source: Lesotho Electricity and Water Authority (2014), *Annual Report 2013-14*. Viewed at: http://www.lewa.org.ls/library/AnnualReports/2013_14_LEWA_Annual_Report.pdf.

4.47. Like the LEC and the LHDA, WASCO maintains a monopoly in its market. It is responsible for the abstraction, treatment, distribution and storage of water for urban populations. The LEWA issued its licence in May 2013.

4.48. Given its vast water resources, Lesotho has developed together with South Africa the Lesotho Highlands Water Project (LHWP) with two main objectives: (a) to increase its electricity production and (b) to export/transfer water to South Africa to raise its revenues from water royalties and electricity sales. The project consists of four phases, the first phase was completed in 2004 and the second phase was launched in March 2014. The last phase is expected to be finalized by 2020. In 2011, Lesotho received about R 615 million in royalties for water sales under the LHWP.[57] This project is considered to be one of the largest water transfer schemes in the world. It is expected that by 2020, five dams and 200 kilometres of tunnels will have been constructed between the two countries.

[52] LEA (Universal Access Fund) Rules 2011 (Legal Notice No. 83 of 2013).
[53] The LEWA exempted the Rural Electrification Unit of the Department of Energy from requiring a licence to conduct three electrification access pilot projects in 2007. The exemption expired in 2012 and was extended until September 2014.
[54] The authorities indicated that WASCO is the only operator for the abstraction, treatment and distribution of water and disposal of effluent, but that there are other services (e.g. sewer tinkering) that have been outsourced to private entities.
[55] Lesotho Electricity and Water Authority (2014).
[56] Lesotho Electricity and Water Authority (2014).
[57] Lesotho Highlands Development Authority (2012).

4.49. Other entities with some responsibilities in the water sector are the Commissioner of Water (CoW), Department of Rural Water Supply (DRWS) and the Department of Water Affairs (DWA). The DWA is responsible for water resource management, and the CoW acts as the custodian of raw water resources. The DRWS' main responsibility is to ensure the provision of water supply in rural areas.

## 4.4 Manufacturing

4.50. Despite a decline in its performance, the manufacturing sector remained together with the services sector the largest contributor to Lesotho's GDP during the period 2008-13. In 2013, the sector accounted for 12.2% of GDP compared to 18.8% in 2008.[58] This decline was mainly driven by a slowdown in the textile and clothing industry, which is Lesotho's main manufacturing industry both in terms of revenues and employment (Table 4.5). Textiles and clothing are also Lesotho's leading export product, accounting for 60% of total exports in 2012.[59] Other manufacturing industries in Lesotho were food products and beverages (Table 4.5).

**Table 4.5 Manufacturing indicators (at 2004 constant basic prices), 2008-13**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|
| Manufacturing (% of GDP) | 18.8 | 17.1 | 18.1 | 15.4 | 14.2 | 12.2 |
| Food products and beverages (% of GDP) | 3.1 | 3.0 | 3.0 | 3.1 | 3.0 | 2.7 |
| Textiles, clothing, footwear and leather (% of GDP) | 12.7 | 11.1 | 11.9 | 10.3 | 9.3 | 7.7 |
| Other manufacturing (% of GDP) | 3.0 | 3.0 | 3.1 | 1.9 | 1.9 | 1.8 |
| Total employment in manufacturing | .. | .. | .. | .. | .. | 55,376 |
| In the textile and clothing sector | 41,753 | 35,132 | 37,482 | .. | .. | 49,005 |
| Number of firms in the textile and clothing sector | 38 | 38 | .. | .. | .. | .. |

.. Not available.

Source: Lesotho Bureau of Statistics and data provided by the authorities.

4.51. During the period under review, trade in textile and clothing was irregular. Following the global crisis of 2009, exports declined, but recovered in the following years due notably to the improvement of the U.S. economy, the renewal of the AGOA third-country fabric provision in 2012 and the depreciation of the loti against the U.S. dollar in 2013. Indeed, in September 2012 the AGOA third-country fabric provision was renewed for another three years until September 2015, which restored confidence and caused orders from U.S. retailers to pick up. With the renewal of this provision, apparel goods produced in lesser developed AGOA beneficiary countries with yarn and fabric imported from abroad can continue to benefit from duty-free access to the U.S. market.[60]

4.52. Clothing and textiles exhibit the largest average duties of the SACU tariff schedule. For clothing, the average CET was 40.6% in 2014 with rates ranging between zero and 45%[61], while for textiles, the average CET was 16.9% with rates varying from zero to 30%, when excluding non-*ad valorem* tariffs (i.e. four lines). For manufactured products (WTO definition) the CET was 8% (Main Report, Table 3.6).

4.53. As of March 2014, there were 74 companies operating in the textile and clothing sector in Lesotho, of which the majority were owned mainly by investors from South Africa (45% in 2014), Chinese Taipei (34% in 2014) and China (4% in 2014).[62] While Asian companies operate to take advantage of U.S. market concessions under the AGOA scheme and are therefore well integrated into American value chains, companies owned by South Africans are attracted mainly by wage differentials and participate in regional value chains. Yet, Lesotho could take better advantage of

[58] Lesotho Bureau of Statistics (at constant prices).
[59] Latest year available.
[60] In June 2015, the AGOA programme (including the third-country fabric provision) was extended until 2025.
[61] All tariffs within this product category are *ad valorem*.
[62] Information provided by the authorities.

its integration into value chains by diversifying into other products and markets and conducting tasks with a higher added value.

4.54. Lesotho's apparel production is export-oriented and remains concentrated in one market, the United States, and in very few products, denim jeans and knitted garments. During 2008-2012, on average 66% of textile and garment exports were destined for this market, and almost all entered under the AGOA programme (see Section 2.2.3).[63] Currently, other export markets for Lesotho apparel are Canada, Australia, Mexico, Mauritius and the European Union.

4.55. Besides being highly concentrated, the textile and apparel sector faces many challenges, including limited access to finance, poor infrastructure, high electricity and transport costs and low-skilled labour. Moreover, the sector is facing increasing competition from abroad. During the period reviewed, actors in the sector were also concerned about the renewal of the AGOA programme and its third-country fabric provision, set to expire in September 2015. However, confidence was restored in June 2015 when its programme, including its third-country fabric provision, was renewed for ten more years until September 2025.

4.56. At the institutional level, the Ministry of Trade and Industry (MTI) continues to be responsible for the development and management of Lesotho's industrial and trade policies. The MTI chairs the Inter-Ministerial Task Team for the Textiles and Apparel Industry which is in charge of analysing industry performance and making recommendations to improve its competitiveness and attract investment. Another important institution for the manufacturing sector is the Lesotho National Development Corporation (LNDC), whose functions include facilitating the development of manufacturing and processing industries, and promoting investment (see Section 2.3).

4.57. Lesotho applies a favourable fiscal regime for firms engaged in manufacturing activities. These firms are subject to a corporate tax of 10%, compared to 25% for other activities (see Section 2.3.4). There is also no withholding tax on dividends. Building companies, as well as hotels and casinos can also benefit from different tax incentives. Other incentives granted to the manufacturing sector are those administered by the LNDC which focus mainly on investment and are described in Section 2.3.4.

4.58. According to the authorities, the textile and apparel sector is also one of the main beneficiaries of the SACU rebate 470.03.[64] Under this programme, registered companies are exempted from duties on imports of raw materials from outside SACU as long as they use these inputs to produce goods destined for export outside the SACU area. If the final good is exported to the SACU area, exporters must pay the import duties that were initially exempted (see Section 3.1.4.3).

## 4.5 Services

### 4.5.1 Financial services

#### 4.5.1.1 Overview

4.59. During the period 2008-15, Lesotho introduced various reforms to modernize and strengthen the regulatory framework of the financial sector and thus enhance its performance. During this period, the financial sector increased its weight in the economy, accounting for 7.3% of GDP in 2013 compared to 5% in 2008.[65] The financial sector comprises banking and non-banking services providers, with the latter dominated by insurance providers. Other non-banking institutions operating in Lesotho include moneylenders, exchange bureaux, savings and credit cooperatives (SACCOs), and rural savings and credit groups (RSCGs). The sector is concentrated in the urban cities, mainly in Maseru, and has very few services providers, in particular in banking. Competition is therefore very limited. Access to finance remains a major challenge in particular for SMEs and populations in rural areas.

4.60. According to the IMF, Lesotho's financial system is sound and adequately capitalized. Lesotho managed to weather the global financial crisis of 2009, notably due to its low exposure to

[63] UN Comtrade and data provided by the authorities.
[64] Rebate under item 470.03 of the Tariff Book (Schedule 4).
[65] Lesotho Bureau of Statistics online information. Viewed at: http://www.bos.gov.ls/.

risky assets and relatively high liquidity ratios. Indeed, South African banks which are the main players in Lesotho's banking industry had very limited exposure to toxic financial products during the crisis. Liquidity ratios also remained relatively high during that period. In 2013, the ratio of liquid assets to total deposits was 89%, compared to 95% in 2008. During the same period, the loan to deposit ratio increased to 56% from 29% in 2008.[66]

4.61. The financial sector is governed mainly by the Central Bank of Lesotho Act of 2000, the Cooperative Societies Act of 2000 and by two newly enacted laws, the Financial Institutions Act (FIA) of 2012, which repealed the 1999 Act[67] and the Insurance Act of 2014, which repealed the 1976 Act.[68] The FIA of 2012 provides the legal framework for the regulation, registration and supervision of both banking and non-banking financial institutions, excluding insurance providers, and, depending on their characteristics, cooperatives and credit bureaux.[69] The Insurance Act provides the regulatory framework for insurance. Compared to previous legal instruments, an important characteristic of the FIA 2012 and the Insurance Act 2014 is the inclusion of the microfinance subsector, which is underdeveloped. There are also a number of regulations and acts, issued in recent years that complement these legal instruments by dealing with specific aspects of the financial sector (Table 4.6).

**Table 4.6 Main legislation applied in the financial sector**

| Legislation | Date of publication in the Gazette |
|---|---|
| Central Bank of Lesotho Act 2000 | .. August 2000 |
| Financial Institutions Act 2012 | 27 February 2012 |
| Insurance Act 2014 | 26 September 2014 |
| Payments Systems Act 2014 | 28 February 2014 |
| Financial Institutions (Money Transfer) Regulations 2014 | 24 February 2014 |
| Financial Institutions (Credit Only and Deposit-taking Micro-Finance Institutions) Regulations 2014 | 4 December 2014 |
| Financial Institutions (Foreign Exchange Bureau) Regulations 2014 | .. February 2014 |
| Credit Reporting Act 2011 | 24 January 2012 |
| Credit Reporting Regulations 2013 | 19 July 2013 |
| Financial Lease Regulations 2013 | 25 April 2013 |
| Financial Institutions (Foreign Financial Institutions - Conduct of Business by Branch) Regulations 2005 | 7 June 2005 |
| Financial Institutions (Liquidity Requirements) Regulations 2000 | 28 December 2000 |
| Cooperative Societies Act 2000 | 15 September 2000 |
| Money Lenders Order 1989 | 15 December 1989 |
| Societies Act 1966 | 30 September 1966 |

.. Not available.

Source: WTO Secretariat based on Lesotho's legislation and information provided by the authorities.

4.62. At the institutional level, there were no significant changes during the period reviewed. The Ministry of Finance is in charge of developing financial sector policies and the Central Bank of Lesotho (CBL) is the regulator (i.e. Commissioner) of the banking and non-banking sector, including the insurance sector.[70] The CBL is also in charge of the allocation of licences. Besides the CBL, the Commissioner for Cooperative Development also has some responsibilities in the financial sector, and is in charge of the SACCOs and other cooperatives under the Cooperative Societies Act 2000.[71] However, the supervisory capacities of the Commissioner are limited.

### 4.5.1.2 Banking and non-banking services (excluding insurance)

4.63. The Banking industry in Lesotho comprises four licensed commercial banks (as of June 2015), and is concentrated in the capital Maseru where these banks are located. It consists of the Lesotho Post Bank, which is a state-owned company and three subsidiaries of South African banks (i.e. Standard Lesotho Bank, First National Bank and Ned Bank). These three subsidiaries

[66] IMF (2014).
[67] Financial Institutions Act 2012 (Act No. 3 of 2012) published in the Gazette on 27 February 2012.
[68] Insurance Act 2014 (Act No. 12 of 2014) published in the Gazette on 26 September 2014.
[69] Article 4 of the Financial Institutions Act 2014.
[70] Article 2 of the Financial Institutions Act 2012 and of the Insurance Act 2014.
[71] Articles 73-91 of the Cooperative Societies Act 2000.

accounted for about 95% of total loans and deposits and had 43 branches across the country in 2015.[72] The Standard Lesotho Bank is also partially owned by the State.[73] To increase its geographic coverage, the Lesotho Post Bank (LPB) works in partnership with Lesotho Postal Services, contributing to improving rural financial intermediation. The LPB was granted a banking licence by the CBL in 2010, thus transforming it into a fully-fledged commercial bank.

4.64. There were also 154 moneylenders, of which two were credit-only institutions and three ancillary[74] financial institutions.[75] In addition, there are unlicensed deposit-taking entities operating in Lesotho.

4.65. The banking and non-banking sector (excluding insurance) is regulated mainly by the Financial Institutions Act (FIA) of 2012, which repealed the 1999 Act. In the case of cooperatives and credit bureaux, other relevant legal instruments include the Cooperative Societies Act of 2000 and the Credit Reporting Regulations of 2013. The FIA 2012 classifies banking and non-banking institutions, excluding insurance, according to their activities (Table 4.7) and specifies their requirements in terms of both licensing and minimum capital. The FIA 2012 has broader coverage than the FIA 1999 as it also regulates, depending on their capital, non-banking institutions specialized in other deposit activities such as moneylenders, foreign exchange bureaux, microfinance credit institutions, cooperatives and cooperative banks, which were not covered by the FIA 1999. Therefore, the CBL now also has the power to supervise non-banking institutions such as SACCOs with deposits larger than M 5 million. This is particularly important since there have been cases of mismanagement among SACCOs.[76] Moreover, under the FIA 2012, the minimum capital requirements for financial institutions are higher than under the FIA 1999. They range from M 5 to M 20 million depending on the type of business, and for certain financial institutions such as foreign exchange bureaux, money transfers and microfinance credit, the capital requirement is to be determined by the CBL. In the past, the minimum capital requirement was M 10 million for all types of institution covered by the FIA 1999.[77] The FIA 2012 also provides for sanctions and enhances the investigatory powers of the CBL.

**Table 4.7 Classification of financial institutions (excluding insurance companies), 2015**

| Type of financial institution | Coverage | Minimum capital requirement |
|---|---|---|
| Type I | (a) Commercial banks, (b) Merchant/investment banks, and (c) Mortgage banks | M 20 million (about US$1.7 million) |
| Type II | (a) Saving banks, (b) Deposit-taking microfinance businesses, (c) Large financial cooperatives | M 10 million (about US$864 thousand) |
| Type III | (a) Credit institutions, (b) Acceptance houses, (c) Discount houses, and (d) Finance houses | M 5 million (about US$432 thousand) |
| Type IV | (a) Foreign exchange bureaux, (b) Money transfer institutions, (c) Credit guarantee facility institutions, and (d) Credit only microfinance institutions | To be determined by the Commissioner in the regulations |

Source: Article 9, Second and Third Schedules of the Financial Institution Act 2012.

4.66. To engage in banking and non-banking businesses (excluding insurance), an institution must apply for a licence. In addition, they are required to register and be incorporated as a public company in Lesotho.[78] Registration as a public company requires the prior written approval of the CBL.[79] Lesotho does not maintain any restrictions on foreign capital[80] but applies restrictions on the members of the board of directors of a financial institution. The chief executive officer, who is

[72] Information provided by the authorities.
[73] Standard Lesotho Bank website. Viewed at: http://www.standardlesothobank.co.ls/lesotho/About-Us/Company-Overview.
[74] According to the Financial Institutions Act 2012 (Article 2), ancillary financial services include electronic fund transfer services, foreign exchange dealing services, supporting services to financial institutions and other similar auxiliary financial services.
[75] Data provided by the authorities.
[76] The Cooperative Societies Act 2000 allowed Savings and Credit Cooperatives (SACCOS) to take deposits from members and non-members.
[77] Article 8 of the Financial Institutions Act 1999.
[78] The term "public company" in Lesotho refers to limited (liability) companies whose shares can be freely sold and traded to the public (Articles 23 and 24 of the Companies Regulations 2012). In the case of private companies, shares can only be allocated among its owners.
[79] Article 5 of the Financial Institutions Act 2012.
[80] Companies in the financial sector can be entirely foreign-owned.

a member of the board of directors, must reside in Lesotho.[81] In the case of foreign financial institutions, they can apply for a licence as long as they appoint a legal agent resident in Lesotho[82], and according to the authorities they can be established as branches or subsidiaries as long as they meet the conditions in the legislation.[83]

4.67. Persons wishing to carry out financial activities as a cooperative must submit an application to the Commissioner for Cooperative Development to obtain a certificate of registration granted upon his/her approval.[84]

4.68. Interest rates are market-driven. According to the authorities, the CBL only sets the prime interest rate.

4.69. Lesotho maintains exchange controls (see Section 3.2.1).[85] Three commercial banks and two private exchange bureaux are authorized by the CBL to deal in foreign exchange. However, the CBL retains the power to approve foreign exchange requirements for all capital account transactions including FDI and remittances.

4.70. In 2014, Lesotho licensed a Credit Bureau (a South African operator, Compuscan) to collect and process credit information of potential customers to assess their credit risk. The establishment of the Credit Bureau is expected to facilitate the exchange of credit information on potential clients and streamline the processing of credit requests.[86] The authorities indicated that the Credit Bureau has started collecting data with the help of the Credit Providers Association, which was established in 2013 by credit providers, including banks and other credit giving entities. It is expected that it will be fully operational by June 2015.

#### 4.5.1.3 Insurance services

4.71. The insurance sector comprises ten licensed insurance companies, 23 insurance brokers and a handful of insurance agents (as of June 2015). Of the insurance companies, five provided short-term insurance and the other five long-term insurance. The sector is governed by the Insurance Act of 2014, which repealed the 1976 Act. The new Act also covers microinsurance activities, and distinguishes between long-term (i.e. life insurance), short-term (i.e. non-life insurance) and micro insurance business. It also covers insurance intermediaries such as agencies and brokers.

4.72. To operate in Lesotho's insurance sector, insurance providers must register, have a commercial presence in the country and obtain an insurance licence. Under the new Act only public companies are allowed to obtain an insurance licence, thus excluding cooperative societies which in the past were eligible.[87] Insurance licences are valid for 5 years[88], renewable. According to the authorities, there are no composite licences allowing operators to engage in both banking and insurance activities, and no restrictions on foreign capital.

4.73. The authorities further indicated that the minimum capital is M 2 million. Previously, the minimum capital was: (a) R 50,000 or 10% of the premium income for life insurance business; or (b) R 100,000 or 20% of the premium income for general insurance business.[89]

### 4.5.2 Telecommunications and postal services

4.74. Telecommunications accounted for 3.3% of Lesotho's GDP in 2013.[90] Lesotho's telecommunication infrastructure is limited, interconnection rates are high and universal access to telephony, internet and postal services remains a challenge despite major improvements. The

[81] Article 42 of the Financial Institutions Act 2012.
[82] Article 11 of the Financial Institutions Act 2012.
[83] Information provided by the authorities.
[84] Articles 17 and 21 of the Cooperative Societies Act 2000.
[85] Legal Notice No. 175 of 1989: Exchange Control Regulations.
[86] The Credit Reporting Act 2011 and its Regulations 2013 provide for the regulation of data and credit reporting in Lesotho, as well as the registration of credit information bureaux.
[87] Article 6 of the Insurance Act 2014 and Article 4 of the Insurance Act 1976.
[88] Article 14 of the Insurance Act 2014.
[89] Article 7 of the Insurance Act 1976.
[90] Lesotho Bureau of Statistics online information. Viewed at: http://www.bos.gov.ls/.

telecommunications sector has continued to expand in terms of mobile telephone subscribers. During the period 2008-2014, the teledensity grew from 28% to 96%, resulting mainly from a surge in the number of mobile telephone subscribers, which in 2014 totalled almost 1.8 million against 0.5 million in 2008 (Table 4.8). Internet penetration remained relatively low but reached 30% in 2013 compared to 1% in 2010. According to the authorities, the increase in the number of internet users was mainly due to the advent of smart phones and 3G networks which were introduced in 2010. In general and despite some improvements, the population in rural areas is still the most disadvantaged due to high costs, limited electrical and communication infrastructure and a lack of digital literacy.

**Table 4.8 Main ICT indicators, 2008-14**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|
| Contribution to GDP (%) of the postal and telecommunications sectors | 2.9 | 3.1 | 3.4 | 3.4 | 3.6 | 3.7 | .. |
| Fixed telephone subscriptions | 47,582 | 41,190 | 38,612 | 37,656 | 38,579 | 50,769 | 50,453 |
| Mobile telephone subscriptions | 482,455 | 593,216 | 783,604 | 1,025,647 | 1,311,725 | 1,580,713 | 1,753,323 |
| Fixed telephone teledensity (%) | 3 | 2 | 2 | 2 | 2 | 3 | 3 |
| Mobile cellular teledensity (%) | 26 | 32 | 42 | 55 | 70 | 84 | 93 |
| Overall teledensity (%) | 28 | 34 | 44 | 57 | 72 | 87 | 96 |
| Internet subscribers | 1,360 | 1,251 | 26,312 | 51,717 | 58,986 | 237,877 | 558,171 |
| Percentage of individuals using the Internet (%) | 0 | 0 | 1 | 3 | 3 | 13 | 30 |

.. Not available.

Source: Central Bank of Lesotho and Lesotho Communications Authority (LCA) statistics.

4.75. Lesotho's main objective is to ensure universal service and develop its ICT communications infrastructure to improve its productivity, promote investment and achieve economic growth as described in its NSDP 2012-17. The development of ICT communications is one of the six NSDP strategies.

4.76. The communications sector in Lesotho consists mainly of three subsectors, telecommunications (telephony and internet), broadcasting and postal services. The State, either entirely or partially, owns companies in all three subsectors. The participation of companies (domestic or international) is based on a licensing regime and according to the authorities there is no limitation on foreign capital. Since the last review, the market structure has not changed much, although some new licences have been granted mainly in the broadcasting sector. Currently, there are two main telecommunication providers: Econect Telecom Lesotho (ETL)[91] and Vodacom Lesotho (VCL). ETL is 30% owned by the State and provides fixed and mobile telephone services, as well as internet services. VCL is the leading mobile operator. It provides mobile and internet services but it is also eligible to provide fixed line services. In addition, there are five[92] other companies providing internet services.[93] Retail rates are subject to the approval of the LCA according to a cost-based approach.

4.77. The private broadcasting sector is mainly dominated by the Lesotho National Broadcasting Services[94], the state broadcaster, with two radio stations (sound broadcasting) and one television station. In addition, there are 17 licensed radio stations (public and private sound broadcasting) and one television station, amounting to a total of 19 radio stations[95] and two television stations[96].

[91] Previously, the Lesotho Telecommunications Corporation, which was privatized in 2000. In April 2008 Telecom Lesotho (fixed telephony) and its subsidiary Econet Ezi-Cel Lesotho (EEL) (mobile telephony) merged to form Econet Telecom Lesotho.

[92] Econet Telecom Lesotho (ETL) and Vodacom Lesotho (VCL) are the main licence holders.

[93] Compared to six that were operating in 2008.

[94] Lesotho National Broadcasting Services is part of the Ministry of Communications, Science and Technology.

[95] This figure excludes community and commercial sound broadcasting licensees (in total three).

During the period under review one new licence was granted to the Lesotho Electricity Company, which owns a fibre optic network, for leasing to other service providers in 2013.

4.78. The main government entities in this sector continue to be the Ministry of Communications, Science and Technology (MCST), and the Lesotho Communications Authority (LCA), formerly known as the Lesotho Telecommunications Authority (LTA). The MCST is the main entity in charge of formulating and developing the legislation for this sector, while the LCA is responsible for monitoring its implementation. The LCA is an independent body operating under the administrative supervision of the MCST. The functions of the LCA include the allocation of operators' licences, the promotion of fair competition, approval of retail prices, management of the radio frequency spectrum and protection of consumers. The members of its board of directors are appointed by the Minister of Communications, Science and Technology.[97]

4.79. During the period reviewed, Lesotho made significant reforms to the telecommunications regulatory framework to strengthen the sector's activities, ensure universal access to communication services, improve transparency and promote investment. The sector is mainly governed by the Communications Act of 2012[98], which entered into force on 27 April 2012. The new Communications Act repealed the Lesotho Communications Authority (LCA) Act of 2000[99] which until 2012 had been the main legal instrument regulating the telecommunications sector. In 2013, Lesotho also published new licensing classification and fees rules[100], which replaced the 2008 rules, and in 2009 established a Universal Access Fund.[101] Table 4.9 shows Lesotho's main legal instruments governing the telecommunications sector.[102]

**Table 4.9 Main legal instruments in the telecommunications sector**

| Legislation | Date of publication in the Gazette |
|---|---|
| Communications Act 2012 | 17 February 2012 |
| Lesotho Communications Authority (Licensing Classification and Fees) Rules 2013 | 1 March 2013 |
| Lesotho Communications Authority (Universal Access Fund) Rules 2009 | 13 March 2009 |
| Lesotho Telecommunications Authority Regulations 2001 | 27 March 2001 |
| Lesotho Telecommunications Authority (Administrative, Procedural and Service Provision) Rules 2000 | 13 December 2000 |
| Lesotho Telecommunications Authority (Broadcasting) Rules, 2004 | 14 April 2004 |
| Broadcasting Classification Regulations, 2007 | 14 February 2007 |

Source: WTO Secretariat based on the legislation and on the information provided by Lesotho's authorities.

4.80. The Communications Act of 2012 integrates the regulations of the telecommunications, broadcasting and postal sectors but also introduces reforms to facilitate the introduction of new telecommunications services[103], promote competition[104], and regulate interconnection agreements.[105] The new Act also provides for a code of conduct for broadcasting providers to address the lack of legislation in this area and for the establishment of the Broadcasting Dispute Resolution Panel (BDRP), which deals with any matter related to broadcasting referred to it by the

[96] While in 2008, there were 12 radio stations, two televisions stations and six internet providers (WTO document WT/TPR/S/222/LSO/Rev.1, 14 December 2009).
[97] Articles 3, 4 and 6 of the Communications Act 2012.
[98] Communications Act 2012 (Act No. 4 of 2012) published in the Gazette on 17 February 2012.
[99] Lesotho Telecommunications Authority Act 2000 (Act No. 5 of 2000) published in the Gazette on 9 June 2000 and subsequently cited as the Lesotho Communication Authority Act 2000. The Lesotho Telecommunications Authority Act was amended three times in 2001 (Act No. 7 of 2001), 2006 (Act No. 4 of 2006) and 2007 (Legal Notice No. 31 of 2007).
[100] Lesotho Communications Authority (Licensing Classification and Fees) Rules 2013 (Legal Notice No. 31 of 2013) published in the Gazette on 1 March 2013. These rules repealed those of 2008.
[101] Lesotho Communications Authority (Universal Access Fund) Rules 2009 (Legal Notice No. 31 of 2009) published in the Gazette on 13 March 2009.
[102] Lesotho started restructuring the sector in 1999, which resulted in the first wave of liberalization, with the privatization of the Lesotho Telecommunications Corporation and enactment of the Lesotho Telecommunications Authority Act of 2000, and the creation of the regulatory body of the same name. Since then a few changes have taken place, but the most significant one has been the enactment in 2012 of the Communications Act.
[103] Articles 19 and 20 of the Communications Act 2012.
[104] Articles 21 to 26 of the Communications Act 2012.
[105] Articles 27 to 32 of the Communications Act 2012.

LCA on its own motion or in response to a complaint.[106] Moreover, it introduces a licensing regime for commercial and public postal services, while reserving exclusive rights for the Lesotho Post Office. The authorities indicated in this regard that the provisions on postal services are still to be implemented.[107]

4.81. Under the Communications Act of 2012, the role of the LCA in the determination of the interconnection rate and the design of interconnection agreements is strengthened, as all interconnection agreements now require the LCA's approval.[108] Previously, the LCA could intervene only if providers did not agree on the charges and conditions of the agreement or when a completed agreement did not comply with the principles described in the legislation.[109]

4.82. During the period 2008-12, the interconnection rate applied by providers was M 0.72 per minute, which was considered too high. In 2012, the LCA launched a programme to reduce the interconnection rate over three years which began in October 2012 and will end in October 2015. The programme consisted in a reduction in the rate of 19% per year, so that in October 2014 the interconnection rate reached M 0.38 per minute (Table 4.10). The rate has not changed since then. The authorities indicated that the LCA continues to engage with operators to lower the headline tariffs faced by consumers on the basis of reduced interconnection rates. Currently, headline tariffs remain high but consumers can enjoy reduced rates through promotions.

**Table 4.10 Evolution of interconnection trends 2008-14**

| | Interconnection rate (in Maloti) | Annual reduction |
|---|---|---|
| Period 2008-12 | 0.72 | - |
| October 2012 | 0.58 | 19% |
| October 2013 | 0.47 | 19% |
| October 2014 | 0.38 | 19% |

Source: Information provided by the Lesotho authorities.

4.83. In 2009, Lesotho established the Universal Access Fund to ensure universal access to communications services. Under the Communications Act 2012, the name of this fund changed to Universal Service Fund (USF)[110] and its mandate was expanded by adding internet access, broadcasting and basic postal services to voice telephony, which was initially its primary objective.[111] The fund is a partnership between the LCA, the Government of Lesotho and the two network operators, ETL and VCL.[112] The fund provides financing to extend communications infrastructure to all areas in Lesotho and increase access to telecommunications services. According to the authorities, the fund has been successful and they estimate that as of April 2015, 85% of the territory now had access to voice telephony.

4.84. In 2013, Lesotho adopted new licensing classification and fees rules, which replaced those adopted in 2008 (through Legal Notice No. 7 of 2008). The new rules introduce new licence classifications, which divide licences into six categories depending on the services to be provided and on whether the provider chooses to own/operate its own facilities. Together these categories cover audiovisual services (radio and television broadcasting and transmission), and basic and value-added telecommunications services, and include a permit for short-term activities. Moreover, the new classification follows a converged regime, under which an operator can hold a licence to provide different types of services regardless of the technology used (i.e. technology neutrality). In particular, the new regime includes a "unified licence" that allows holders to provide fixed and mobile services, and electronic communications networks and services, including voice and data services. The new rules aim at improving the predictability in the cost for new entrants and existing licensees.

[106] Article 41 of the Communications Act 2012.
[107] Article 43 of the Communications Act 2012.
[108] Articles 21 to 26 of the Communications Act 2012.
[109] Article 27 of the Communications Act 2000.
[110] Article 33 of the Communications Act 2012.
[111] Article 36 of the Communications Act 2012 and Article 8 of the Lesotho Communication Authority (Universal Access Fund) Rules, 2009.
[112] The authorities indicated that the Fund is financed by network operators, which contribute 1% of their net operating income, by the LCA, which contributes 25% of its annual surplus, and by any other funding that may be secured from time to time.

4.85. As part of its commitments under the International Telecommunication Union (ITU) and the SADC communications agenda, Lesotho must migrate television broadcasting from analogue to digital by the deadline of the 17 June 2015.[113]

4.86. Postal services are reserved to the State and are provided by the Lesotho Post Office (LPO), which is part of the MCST. Under the Lesotho Communications Policy 2008, the Government should transform the LPO from a state agency into an independent corporation, owned by the State and operating as a commercial entity. It should also adopt regulations to protect consumers, and promote competition in this sector. With the Communications Act 2012, only the issues relating to competition and postal rate regulation were addressed. The Act allows the LCA to grant licences to operators to provide commercial postal services as well as public postal services for which the LPO has not been given exclusive rights. The Act also instructs the LCA to develop the conditions under which the postal services infrastructure can be used and to implement an approval system for postal rates.[114] As of April 2015, neither the Lesotho National Broadcasting Services nor the LPO had been reformed and they continued to be part of the MCST.

### 4.5.3 Transport

4.87. Connectivity and transport infrastructure play a key role for economic development and trade integration and are, like for other landlocked developing countries, one of Lesotho's main challenges. During the period under review, the contribution of this sector to Lesotho's economy remained unchanged at 3.2%. Lesotho's transport sector comprises road, air, rail and inland water transport, of which roads represent the main mode of transport.

4.88. During the period under review, there were no significant changes in the transport sector, except for the establishment of the Roads Directorate in 2010.

#### 4.5.3.1 Air transport

4.89. Lesotho has one international airport and 24 airstrips, of which 16 are operational.[115] Airport and airstrip infrastructure is maintained by the Government, but due to weather conditions and their location, airstrip maintenance remains a challenge. Moshoeshoe I International Airport (MIA) in Maseru is located about 40 km east of the city and is the main air transport gateway.

4.90. Lesotho has no national airline. During the period 2008-2015, the number of air services providers remained unchanged. South African Airlink of South African Airways continues to be the only international commercial carrier operating in Lesotho.[116] It operates direct flights between Maseru and Johannesburg only, and has no scheduled domestic flights. Under the Bilateral Air Service Agreement between Lesotho and South Africa, South African Airlink can operate without any restrictions on capacity, frequency or slots.[117]

4.91. Airstrips around the country are served mainly by charter flights. In 2009, MGC Aviation was established; as of June 2015, it was Lesotho's only privately-owned airline. It provided commercial aviation services, as well as humanitarian charters.

4.92. Airport ground services are managed by South African Airways but all personnel must be Lesotho nationals.

4.93. Air transport is mainly regulated by the Civil Aviation Act of 2008 and the Department of Civil Aviation (DCA) of the Ministry of Public Works and Transport (MPWT) is the entity in charge of regulating air transport, including civil aviation, developing infrastructure and licensing air transport operators. The DCA is also responsible for the establishment and maintenance of aerodromes and air navigation facilities. The Civil Aviation Act also provides for the development of

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[113] Provision 12.6 of the ITU Geneva Regional Agreement 2006.

[114] Article 43 of the Communications Act 2012.

[115] Information provided by the authorities.

[116] The authorities indicated that under the Bilateral Air Service Agreement (BASA) between Lesotho and South Africa each country can designate one operator between the two states. South Africa designated SA Link but Lesotho has not designated an operator.

[117] Information provided by the authorities.

bilateral agreements on air transport. Currently, Lesotho has only one bilateral agreement with South Africa but five other were under negotiation according to the authorities.

4.94. Fuel prices are subsidized and determined by the Lesotho Petroleum Fund, which consists of representatives of several ministries, including the Ministry of Finance.

#### 4.5.3.2 Roads

4.95. In 2014, the road network consisted of 7,438 km, of which 1,217 km are paved, 3,758 km are gravel roads, and 2,463 km are earth tracks. The road network is limited in the mountainous areas.

4.96. During the period under review, the legal and institutional framework regulating road transport services did not experience any significant changes, except for the creation of the Roads Directorate in 2010.[118] The Department of Transport and Traffic of the MPWT is the entity responsible for developing the country's road network and for maintaining inter-urban roads, bridges and footbridges. The Roads Directorate is a semi-autonomous entity operating under this Ministry. The Directorate absorbed the Department of Rural Roads (DRR) and the Roads Branch and is in charge of managing the road network, including the construction, upgrading and maintenance of all roads in Lesotho.

4.97. Road transport services are mainly regulated by the Road Transport Act of 1981, which was amended for the last time in 2001, and by the Road Transport Regulations of 2004.

4.98. Passenger services are mainly provided by private taxi and bus transport operators. To provide passenger services, operators require a public transport licence which depends on the route and on the demand. Only vehicles registered in Lesotho are eligible for a licence. Licence applications must be submitted to the Road Transport Board under the MPWT and cabotage is not allowed.[119] The only state-owned company operating in the road transport sector is the Lesotho Freight and Bus Services Corporation, which was established in 1987. The corporation accounts for a small share of public road passenger transport services and operates at regulated prices (regardless of passenger traffic) and mainly on routes that the private sector is unable to cover.

4.99. The Road Transport Board controls the prices in the passenger transport segment based on the national transport cost per passenger.[120] Prices for freight transports are not regulated.[121]

4.100. Operators' ownership in the freight transport business is mixed. Of the locally registered freight transport companies, three are from South Africa and the rest are owned exclusively by Lesotho nationals.[122] Freight transport by road also requires a permit from the Department of Traffic and Transport. Permits are not route-specific.

#### 4.5.3.3 Railways and water transport

4.101. Lesotho's railways consist of a 2.5 km rail line between Maseru Bridge Border and Maseru Station. The station facilities are owned by the Government but they are leased, operated and maintained by the South African rail company, Transnet. Two freight trains run daily and there has been no regular passenger service since 1989.

4.102. Water transport in Lesotho consists of 39 inland river crossings located in the mountainous areas. Water transport services providers consist of publicly and privately owned small rowing boats. According to the authorities, the MPWT owns and operates around 44 ferryboats at river crossings.

[118] Roads Directorate Act of 2010 (Act No. 16 of 2010) published in the Gazette on 1 January 2010.
[119] Information provided by the authorities.
[120] The Road Transport Board includes the Traffic Commissioner and representatives of passenger and freight transport operators.
[121] Information provided by the authorities.
[122] UNCTAD (2011).

### 4.5.4 Tourism

4.103. Tourism has been identified by Lesotho as a key sector with great potential for growth and job creation in its National Strategic Development Plan 2012-17. It is also considered an important sector for the inflow of foreign exchange and new investments. During the period reviewed, there was an increase in the number of travellers to Lesotho and in the contribution of tourism to Lesotho's GDP. In 2014, it accounted for 5.5% of GDP up from 5.1% in 2008.[123] However, performance in this sector remains weak due to limited connectivity, poor or inexistent tourism infrastructure, poor brand image, and a limited marketing and communication strategy. In addition the industry is highly dependent on the South African market and has a high degree of seasonality (with November and December being the peak months for foreign visitor arrivals).

4.104. During the period 2008-15, Lesotho did not register any significant changes in its tourism legislation or institutions. The main legislation governing the sector is the Accommodation, Catering and Tourism Enterprises Act 1997[124] and its Regulations, and the Tourism Act 2002 (as amended), which establishes the Lesotho Tourism Development Corporation.[125] These acts are complemented by other legal instruments that regulate for instance the conservation of monuments and natural parks, the operations of casinos, and liquor trading (Table 4.11). The authorities indicated that the Accommodation, Catering and Tourism Enterprises Act 1997 was under review and that a new bill was being drafted. The new bill was to incorporate the regulations on licensing relating to certain tourism activities which were regulated and licensed by the MTI under the Companies Regulations 2012 (e.g. travel agencies, tour operators and tourist guide services).[126]

**Table 4.11 Main legal instruments in the tourism sector**

| Legislation | Date of publication in the Gazette |
|---|---|
| Tourism (Amendment) Act 2006 | 17 February 2006 |
| Tourism Act 2002 | 26 February 2002 |
| Accommodation, Catering and Tourism Enterprises Act 1997 | 30 December 1997 |
| Accommodation, Catering and Tourism Enterprises Regulations 1999 | .. |
| Liquor Licensing Act 1998 | 8 April 1998 |
| Liquor Licensing Regulations 1999 | .. |
| Environment Act 2001 | .. |
| Casinos Order 1989 | 3 July 1989 |
| Casino Regulations 1990 | .. |
| Historical Monuments, Relics, Fauna and Flora Act 1967 | 13 December 1967 |

.. Not available.

Source: WTO Secretariat based on information provided by Lesotho's authorities.

4.105. Tourism development is the responsibility of the Ministry of Tourism, Environment and Culture (MTEC) and the Lesotho Tourism Development Corporation (LTDC).[127] The MTEC is in charge, *inter alia,* of developing and implementing tourism policies and legislation and of issuing tourism licences and environment impact assessment (EIA) clearances (Section 2.3.2). The LTDC is a state-owned entity and its board of directors has representatives from the public and private sector.[128] Its functions include promoting tourism and investment in this sector, developing strategic marketing, creating touristic products and circuits and providing financial assistance.[129] In addition to these two entities, there is the Lesotho Council of Tourism (LCT), which was created in 1996 as a partnership between the MTEC and LTDC to represent the interests of tourism operators and associations. However, the authorities indicated that the Council was currently inactive. Tourism associations in Lesotho include the Lesotho Hotels and Hospitality Association (LHHA);

[123] World Travel and Tourism Council (2015).
[124] Accommodation, Catering and Tourism Enterprises Act 1997 (Act No. 13 of 1997) published in the Gazette on 30 December 1997.
[125] Tourism Act 2002 (Act No. 4 of 2002) published in the Gazette on 26 February 2002. The Tourism Act 2002 has been amended only once in 2006 through the Tourism (Amendment) Act No. 1 of 2006, published in the Gazette on 17 February 2006.
[126] Schedule 1 of the Companies Regulations 2012.
[127] The LTDC was established by the Tourism Act 2002 (Act No. 4 of 2002).
[128] Article 16 of the Tourism Act 2002.
[129] Articles 3 and 4 of the Tourism Act 2002.

Tourism Association of Lesotho (TOAL) and Lesotho Liquor and Restaurant Owners Association (LLROA).[130]

4.106. During the period 2008-13, the number of visitors to Lesotho increased by 48% mainly driven by an increase in the number of visitors from South Africa. Almost all travellers come from this country (91.5% in 2013) and enter Lesotho by road (97% in 2013) (Tables 4.12 and 4.13). There are a limited number of visitors coming from Europe, in particular Germany, the United Kingdom and the Netherlands, which together accounted in 2013 for about 3% of the total number of visitors. Other visitors come from Zimbabwe, China, Botswana, Swaziland, Zambia and Canada, each accounting for less than 0.5% of the total number of visitors. In general, visitors from outside the region declined during this period.

4.107. The authorities indicated that they expect to increase overall international tourism arrivals from about 396 thousand in 2013 to 914 thousand by 2020, as well as the number of tourism-related jobs by some 60 thousand.[131]

**Table 4.12 Tourist arrivals, 2008-13**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013[a] |
|---|---|---|---|---|---|---|
| South Africa | 248,548 | 302,444 | 302,655 | 371,867 | 394,336 | 396,062 |
| Germany | 6,469 | 5,015 | 4,425 | 3,827 | 3,746 | 4,692 |
| United Kingdom | 5,006 | 4,619 | 3,826 | 2,585 | 1,811 | 2,368 |
| Zimbabwe | 4,534 | 4,510 | 3,819 | 2,619 | 3,551 | 3,780 |
| Netherlands | 4,995 | 4,255 | 3,886 | 2,890 | 3,594 | 4,857 |
| United States | 3,520 | 3,212 | 3077 | 2,578 | 2,222 | 2,652 |
| China | 2,407 | 2,233 | 1,596 | 724 | 998 | 1,320 |
| Botswana | 1,796 | 2,060 | 1,922 | 1,419 | 1,752 | 2,188 |
| Swaziland | 1,361 | 1,405 | 1,406 | 875 | 1,071 | 1,330 |
| Zambia | 618 | 806 | 707 | 570 | 662 | 855 |
| Canada | 829 | 805 | 662 | 502 | 718 | 626 |
| Others[b] | 12,990 | 12,379 | 97,889 | 7,693 | 8,136 | 12,236 |
| Total | 293,073 | 343,743 | 425,870 | 398,149 | 422,597 | 432,966 |

a Provisional figures.
b Includes non-responses.

Source: Lesotho Tourism Development Corporation.

4.108. Holiday visitors represent a minority. In 2013, they accounted for 27.6% of the total number of visitors and business visitors accounted for 10.5% (Table 4.13). The tourism sector is underdeveloped and faces numerous challenges, in particular poor or inexistent infrastructure. For the authorities, Lesotho's tourism potential lies in its mountainous landscapes, rich flora and fauna, and cultural monuments. Its priorities thus include improving Lesotho's connectivity; developing tourism products, circuits and branding; attracting investment in tourism; protecting, conserving and managing cultural heritage resources; and improving the quality of services, as well as the legal and institutional framework.[132]

**Table 4.13 Arrivals (in percentages) by mode of transport and purpose of visit, 2013**

| Purpose | Air | Road | Total |
|---|---|---|---|
| Business | 1.6 | 8.9 | **10.5** |
| Employment | 0.0 | 0.4 | **0.4** |
| Holiday | 0.3 | 27.3 | **27.6** |
| Returning Resident | 0.0 | 0.2 | **0.2** |
| School | 0.0 | 0.1 | **0.1** |
| Other[a] | 1.3 | 60.0 | **61.3** |
| **Total** | **3.3** | **96.8** | **100** |

a Includes non-responses. Non-responses accounted for less than 0.5%.

Source: Lesotho Tourism Development Corporation.

4.109. Under the Accommodation, Catering and Tourism Enterprises Act 1997, tourism operators (domestic and foreign) must have a licence approved by the Tourism Licensing Board in order to

[130] Information provided by the authorities.
[131] Information provided by the authorities.
[132] Information provided by the authorities.

operate.[133] The Act establishes 11 types of licences for: (a) camp sites, (b) hotels, (c) lodges, (d) restaurants, (e) self-catering establishments, (f) bed and breakfasts, (g) youth hostels, (h) resorts, (i) motels, (j) catering and (k) guest houses.[134] Prior to the approval of licences, the Ministries of Tourism and Health, the Police and Maseru City Council must inspect the facilities of the business being considered for a licence and submit inspection reports to the Licensing Board.[135] Licences are valid for one year and are renewable.[136]

4.110. According to the authorities, there are no barriers to foreign entry in tourism, and tourism operators can benefit from the general investment incentives described in Section 2.3.

[133] The Board members include representatives of the MTEC, Ministry of Health, LTDC, and the Commissioner of Police; as well as of different tourism associations (Article 4 of the Accommodation, Catering and Tourism Enterprises Act 1997).

[134] Article 14 of the Accommodation, Catering and Tourism Enterprises Act 1997.

[135] Articles 17 and 20 of the Accommodation, Catering and Tourism Enterprises Act 1997.

[136] Articles 19 and 20 of the Accommodation, Catering and Tourism Enterprises Act 1997.

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## 5 APPENDIX TABLES

### Table A1.1 Merchandise exports by product group, 2008-12

(US$ million and %)

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Total (US$ million) | 727 | 628 | 503 | 770 | 678 |
| | (% of total) | | | | |
| **Total primary products** | **14.4** | **12.5** | **22.4** | **18.0** | **20.6** |
| Agriculture | 14.1 | 12.4 | 21.8 | 17.6 | 20.1 |
| Food | 10.8 | 8.9 | 16.6 | 14.2 | 14.3 |
| 1110 Non-alcoholic beverages, n.e.s. | 6.0 | 5.2 | 12.0 | 8.8 | 9.5 |
| 0564 Flours, meals, flakes of potatoes, fruit, veg., n.e.s. | 2.0 | 1.2 | 1.7 | 2.4 | 1.6 |
| Agricultural raw material | 3.3 | 3.5 | 5.3 | 3.4 | 5.7 |
| 2681 Wool, greasy (including fleece-washed wool) | 2.1 | 2.4 | 3.3 | 2.2 | 5.2 |
| Mining | 0.3 | 0.1 | 0.5 | 0.4 | 0.5 |
| Ores and other minerals | 0.3 | 0.1 | 0.4 | 0.2 | 0.4 |
| Non-ferrous metals | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Fuels | 0.0 | 0.0 | 0.1 | 0.1 | 0.1 |
| **Manufactures** | **85.6** | **83.7** | **62.1** | **77.5** | **79.1** |
| Iron and steel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Chemicals | 0.2 | 0.6 | 0.1 | 0.1 | 0.1 |
| Other semi-manufactures | 5.4 | 2.9 | 3.4 | 3.7 | 4.1 |
| 6672 Diamonds (excl. industrial, sorted) not mounted/set | 5.3 | 2.2 | 2.5 | 3.1 | 3.3 |
| Machinery and transport equipment | 13.8 | 12.7 | 10.7 | 8.2 | 11.4 |
| Power generating machines | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other non-electrical machinery | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 |
| Agricultural machinery and tractors | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Office machines & telecommunication equipment | 7.3 | 5.8 | 1.2 | 0.6 | 2.5 |
| 7611 Colour television receivers | 7.3 | 5.6 | 0.8 | 0.2 | 2.1 |
| Other electrical machines | 6.4 | 6.8 | 9.5 | 7.6 | 8.9 |
| 7728 Parts for apparatus of 772.4, 772.5 and 772.6 | 4.9 | 5.8 | 7.9 | 5.2 | 5.1 |
| 7782 Electric filament or discharge lamps; arc lamps; and parts thereof | 0.0 | 0.0 | 0.2 | 1.5 | 2.8 |
| Automotive products | 0.0 | 0.1 | 0.0 | 0.0 | 0.0 |
| Other transport equipment | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Textiles | 3.0 | 4.9 | 4.1 | 4.6 | 3.5 |
| 6513 Cotton yarn, excluding thread | 1.4 | 1.6 | 2.2 | 2.8 | 2.9 |
| Clothing | 60.1 | 57.7 | 36.3 | 55.8 | 55.6 |
| 8414 Trousers, bib and brace overalls, breeches and shorts | 10.2 | 12.9 | 8.4 | 16.5 | 14.3 |
| 8442 Suits, ensembles, jackets, dresses, etc. | 18.4 | 5.5 | 5.9 | 8.4 | 11.5 |
| 8454 T-shirts, singlets and other vests, knitted or crocheted | 4.9 | 3.4 | 2.3 | 2.8 | 4.9 |
| 8413 Jackets and blazers, men's/boys', not knitted or crocheted | 1.1 | 0.8 | 1.8 | 1.5 | 1.6 |
| 8437 Shirts, men's/boys', knitted or crocheted | 2.6 | 4.3 | 2.6 | 4.7 | 6.4 |
| 8426 Trousers, breeches, etc., women's/girls', not knitted/crocheted | 5.2 | 9.3 | 4.1 | 5.9 | 4.6 |
| 8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted | 10.3 | 12.4 | 5.2 | 7.3 | 4.9 |
| 8432 Suits, ensembles, jackets, trousers, etc. | 4.5 | 6.2 | 1.8 | 1.8 | 2.3 |
| 8451 Babies' garments and clothing accessories | 0.3 | 0.3 | 0.5 | 1.0 | 1.2 |
| Other consumer goods | 3.1 | 4.9 | 7.5 | 5.0 | 4.5 |
| 8515 Other footwear with uppers of textile materials | 1.1 | 1.7 | 1.5 | 1.1 | 1.5 |
| 8512 Sports footwear | 0.8 | 1.8 | 2.9 | 1.6 | 1.2 |
| 8514 Other footwear, leather or composition leather uppers | 0.4 | 1.0 | 2.2 | 1.8 | 1.4 |
| **Other** | **0.0** | **3.8** | **15.5** | **4.5** | **0.3** |

Source: WTO Secretariat's estimates, based on information provided by the authorities (2008) and UN Comtrade (SITC Rev.3).

## Table A1.2 Merchandise imports by product group, 2008-12

(US$ million and %)

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Total (US$ million) | 972 | 1,356 | 1,277 | 1,460 | 1,594 |
| | | | (% of total) | | |
| **Total primary products** | **37.2** | **41.5** | **33.8** | **41.1** | **36.3** |
| Agriculture | 24.6 | 29.9 | 22.8 | 26.6 | 23.5 |
| Food | 22.5 | 28.1 | 20.6 | 23.5 | 20.8 |
| 0472 Cereal groat, meal, pellets | 1.0 | 1.2 | 0.8 | 0.9 | 1.6 |
| 0123 Poultry, meat and offal | 1.8 | 2.0 | 1.7 | 1.8 | 1.5 |
| 0449 Other maize, unmilled | 0.3 | 0.5 | 1.2 | 1.3 | 1.4 |
| 0221 Milk and cream, not concentrated/sweetened | 0.2 | 0.6 | 0.7 | 0.8 | 0.9 |
| 1222 Cigarettes containing tobacco | 0.9 | 1.0 | 0.8 | 0.8 | 0.9 |
| Agricultural raw material | 2.1 | 1.8 | 2.2 | 3.1 | 2.7 |
| 2631 Cotton (other than linters), not carded or combed | 0.8 | 0.2 | 1.3 | 2.2 | 1.8 |
| Mining | 12.6 | 11.6 | 11.1 | 14.5 | 12.9 |
| Ores and other minerals | 0.5 | 0.5 | 0.7 | 0.5 | 0.6 |
| Non-ferrous metals | 0.3 | 0.2 | 0.1 | 0.1 | 0.1 |
| Fuels | 11.8 | 10.9 | 10.2 | 13.8 | 12.1 |
| 3510 Electric energy | 0.4 | 0.7 | 0.9 | 0.4 | 1.0 |
| **Manufactures** | **59.2** | **56.8** | **63.5** | **54.6** | **59.8** |
| Iron and steel | 0.9 | 1.0 | 1.2 | 1.6 | 2.2 |
| Chemicals | 9.3 | 8.5 | 11.0 | 10.3 | 10.1 |
| 5429 Medicaments, n.e.s. | 0.3 | 0.3 | 2.3 | 1.6 | 0.8 |
| 5821 Self-adhesive of plastics, flat shapes, other than floor, wall and ceiling coverings etc. | 0.0 | 0.3 | 0.6 | 0.8 | 1.8 |
| Other semi-manufactures | 8.2 | 11.9 | 8.8 | 10.0 | 7.5 |
| Machinery and transport equipment | 21.9 | 20.3 | 19.4 | 16.8 | 18.2 |
| Power generating machines | 0.3 | 0.2 | 0.3 | 0.5 | 0.4 |
| Other non-electrical machinery | 3.2 | 3.6 | 3.3 | 4.4 | 4.6 |
| Agricultural machinery and tractors | 0.3 | 0.4 | 0.1 | 0.2 | 0.2 |
| Office machines & telecommunication equipment | 3.5 | 2.8 | 2.2 | 2.0 | 3.0 |
| 7649 Parts and accessories for apparatus of division 76 | 1.7 | 0.9 | 0.7 | 0.6 | 1.9 |
| Other electrical machines | 3.5 | 3.5 | 6.8 | 3.7 | 3.0 |
| Automotive products | 10.4 | 10.0 | 6.5 | 6.0 | 6.9 |
| 7812 Motor vehicles for the transport of persons, n.e.s. | 0.8 | 0.7 | 1.6 | 2.0 | 2.6 |
| 7821 Goods vehicles | 0.8 | 1.5 | 1.3 | 1.7 | 1.9 |
| 7843 Other motor vehicle parts and accessories of 722, 781 to 783 | 1.2 | 1.8 | 2.1 | 1.7 | 1.6 |
| Other transport equipment | 1.0 | 0.2 | 0.3 | 0.2 | 0.3 |
| Textiles | 3.1 | 3.7 | 10.8 | 5.4 | 10.1 |
| 6551 Pile fabric, knitted or crocheted, coated, covered, or laminated | 0.2 | 0.1 | 2.3 | 0.6 | 1.3 |
| 6524 Other fabrics, of 85% finished cotton > 200 g/m2 | 0.2 | 0.3 | 2.4 | 0.7 | 1.9 |
| 6552 Other knitted/crocheted fabrics, not impregnated/coated, etc. | 0.1 | 0.0 | 0.2 | 0.6 | 2.0 |
| 6531 Fabrics, woven, of synthetic filament yarn, excl. pile/chenille | 0.3 | 0.6 | 1.8 | 0.9 | 1.2 |
| Clothing | 2.8 | 2.7 | 3.8 | 2.7 | 2.6 |
| Other consumer goods | 12.9 | 8.8 | 8.4 | 7.9 | 9.2 |
| 8931 Plastics containers, stoppers, lids, etc. | 0.3 | 0.5 | 1.2 | 1.0 | 2.4 |
| 8928 Printed matter, n.e.s. | 0.5 | 0.4 | 0.6 | 0.4 | 0.9 |
| **Other** | **3.6** | **1.7** | **2.7** | **4.3** | **3.8** |

Source: WTO Secretariat's estimates, based on information provided by the authorities (2008) and UN Comtrade (SITC Rev.3).

**Table A1.3 Merchandise exports by destination, 2008-12**

(US$ million and %)

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Total (US$ million) | 727 | 628 | 503 | 770 | 678 |
| | (% of total) | | | | |
| America | 53.5 | 47.1 | 23.0 | 46.4 | 44.9 |
| United States | 53.1 | 31.8 | 21.4 | 40.7 | 43.9 |
| Other America | 0.5 | 15.2 | 1.6 | 5.7 | 1.0 |
| Canada | 0.5 | 15.1 | 1.6 | 5.6 | 0.9 |
| Mexico | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 |
| Chile | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Europe | 5.4 | 2.0 | 0.2 | 4.0 | 3.7 |
| EU(28) | 5.4 | 1.9 | 0.2 | 3.8 | 3.7 |
| Belgium | 5.2 | 1.6 | 0.0 | 3.0 | 3.2 |
| United Kingdom | 0.1 | 0.1 | 0.1 | 0.2 | 0.2 |
| Germany | 0.0 | 0.0 | 0.0 | 0.4 | 0.1 |
| The Netherlands | 0.1 | 0.1 | 0.0 | 0.1 | 0.2 |
| EFTA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other Europe | 0.0 | 0.1 | 0.0 | 0.1 | 0.0 |
| Commonwealth of Independent States (CIS) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Africa | 40.8 | 50.1 | 75.9 | 47.2 | 49.0 |
| South Africa | 39.9 | 48.9 | 74.9 | 44.9 | 47.3 |
| Swaziland | 0.0 | 0.1 | 0.2 | 0.7 | 0.7 |
| Botswana | 0.0 | 0.0 | 0.0 | 0.2 | 0.2 |
| Kenya | 0.3 | 0.2 | 0.1 | 0.0 | 0.1 |
| Egypt | 0.1 | 0.2 | 0.5 | 0.5 | 0.1 |
| Morocco | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Tanzania | 0.0 | 0.0 | 0.0 | 0.1 | 0.1 |
| Mauritius | 0.0 | 0.0 | 0.2 | 0.4 | 0.3 |
| Zimbabwe | 0.0 | 0.1 | 0.1 | 0.1 | 0.0 |
| Middle East | 0.0 | 0.0 | 0.0 | 0.7 | 1.7 |
| United Arab Emirates | 0.0 | 0.0 | 0.0 | 0.7 | 1.6 |
| Saudi Arabia | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Asia | 0.2 | 0.7 | 0.9 | 1.7 | 0.7 |
| China | 0.0 | 0.3 | 0.2 | 0.3 | 0.0 |
| Japan | 0.1 | 0.2 | 0.1 | 0.3 | 0.1 |
| Six East Asian Traders | 0.0 | 0.1 | 0.1 | 0.3 | 0.2 |
| Hong Kong, China | 0.0 | 0.0 | 0.1 | 0.2 | 0.2 |
| Other Asia | 0.1 | 0.1 | 0.4 | 0.8 | 0.4 |
| Australia | 0.0 | 0.1 | 0.1 | 0.3 | 0.3 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.1 |

Source: WTO Secretariat's estimates, based on information provided by the authorities (2008) and UN Comtrade (SITC Rev.3).

## Table A1.4 Merchandise imports by origin, 2008-12

(US$ million and %)

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Total (US$ million) | 972 | 1,356 | 1,277 | 1,460 | 1,594 |
| | (% of total) | | | | |
| America | 0.8 | 0.2 | 2.0 | 0.6 | 0.5 |
| United States | 0.8 | 0.2 | 1.9 | 0.6 | 0.5 |
| Other America | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 |
| Europe | 1.9 | 1.6 | 2.0 | 0.3 | 0.6 |
| EU(28) | 1.9 | 1.6 | 1.6 | 0.2 | 0.5 |
| United Kingdom | 0.3 | 0.4 | 0.4 | 0.0 | 0.1 |
| France | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 |
| The Netherlands | 0.0 | 0.0 | 0.1 | 0.0 | 0.3 |
| Germany | 1.5 | 1.1 | 0.4 | 0.1 | 0.0 |
| Belgium | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 |
| EFTA | 0.0 | 0.0 | 0.4 | 0.0 | 0.0 |
| Other Europe | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Commonwealth of Independent States (CIS) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Africa | 95.1 | 95.6 | 79.9 | 97.4 | 89.4 |
| South Africa | 94.7 | 95.2 | 78.9 | 96.4 | 88.9 |
| Zambia | 0.0 | 0.0 | 0.1 | 0.5 | 0.1 |
| Zimbabwe | 0.0 | 0.0 | 0.2 | 0.2 | 0.1 |
| Mauritius | 0.0 | 0.0 | 0.1 | 0.1 | 0.1 |
| Botswana | 0.0 | 0.0 | 0.3 | 0.1 | 0.0 |
| Mozambique | 0.0 | 0.1 | 0.2 | 0.1 | 0.1 |
| Namibia | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 |
| Middle East | 0.0 | 0.0 | 0.1 | 0.0 | 0.1 |
| United Arab Emirates | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Asia | 2.2 | 2.7 | 15.9 | 1.7 | 9.5 |
| China | 0.1 | 0.1 | 2.6 | 0.4 | 2.8 |
| Japan | 2.0 | 2.5 | 0.9 | 0.0 | 0.2 |
| Six East Asian Traders | 0.0 | 0.0 | 9.8 | 0.5 | 5.6 |
| Chinese Taipei | 0.0 | 0.0 | 5.3 | 0.3 | 4.7 |
| Hong Kong, China | 0.0 | 0.0 | 1.1 | 0.2 | 0.7 |
| Singapore | 0.0 | 0.0 | 0.1 | 0.0 | 0.1 |
| Thailand | 0.0 | 0.0 | 0.1 | 0.1 | 0.1 |
| Other Asia | 0.1 | 0.0 | 2.5 | 0.7 | 0.9 |
| India | 0.0 | 0.0 | 1.6 | 0.6 | 0.5 |
| Viet Nam | 0.0 | 0.0 | 0.1 | 0.0 | 0.2 |
| Pakistan | 0.0 | 0.0 | 0.4 | 0.0 | 0.2 |

Source: WTO Secretariat's estimates, based on information provided by the authorities (2008) and UN Comtrade (SITC Rev.3).