



## Doing Business in Lesotho:

### 2013 Country Commercial Guide for U.S. Companies

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## Chapter 1: Doing Business In Lesotho

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### Market Overview

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- Lesotho, with a population of 1.88 million, is geographically surrounded by and economically integrated with South Africa, from which it receives approximately 80 percent of its imports for final consumption.
- Lesotho held free, fair, and transparent general elections in May 2012, in which a three party coalition government, the first in Lesotho's history, ousted the ruling party. The election marked Lesotho's first democratic and peaceful transition of power between political parties since its independence. In response, Freedom House raised Lesotho's political rights rating from "partially free" to "free" in its [2013 \*Freedom in the World Report\*](#), and Fitch upgraded its sovereign credit outlook for Lesotho to stable, citing ongoing improvements in public finance management and structural reforms.
- In 2012, Lesotho moved up 17 places to 136 in the World Bank's Doing Business Report, the biggest improvement of any African country. Lesotho made marked improvements in the areas of starting a business and protecting investors. The Companies Act of 2011 has reduced the number of days it takes to start a business from 40 days to five days and the Land Act of 2010 permits foreigners to own land.
- Lesotho is a member of the Southern African Customs Union (SACU), and as such, does not pay tariffs to export goods to other SACU members (Botswana, Namibia, South Africa, and Swaziland). With the exception of Botswana, these countries also form a common currency and exchange control area known as the Common Monetary Area (CMA). The South African rand can be used interchangeably with Lesotho's currency, the loti, since the loti is pegged one to one (1:1) to the South African rand. The loti-rand peg provides some level of economic stability, and the Government Lesotho also has a record of pursuing prudent macroeconomic policies.
- Lesotho gets most of its foreign exchange through earnings from the Southern African Customs Union (SACU), water exports to South Africa, and, to a decreasing extent, remittances from migrant laborers employed in South Africa.

- Lesotho has relatively low inflation, around 6% at the end of 2012.
- The economy is mostly export driven; major export products are garments, diamonds, water, electricity, wool and mohair. The major economic sectors are manufacturing, mining, agriculture and services.
- Lesotho is one of the top ten exporters to the United States under the African Growth and Opportunity Act (AGOA). U.S. total trade (exports plus imports) with Lesotho was \$327.1 million in 2012.
- The U.S. is the third largest recipient of Lesotho's exports, mostly garments exported under AGOA. The table below shows percentages of Lesotho's exports by country of destination.

Destination of Lesotho's Exports in 2012	
SACU	40%
United States	29.3%
Europe	28.7%
Rest of the World	2%

- Lesotho is also a member of the Southern Africa Development Community (SADC). The SADC Free Trade Area (FTA), launched in 2008 and fully implemented within the 12 SADC member states in 2012, provides foreign investors easier access to the regional market. SADC also has signed an economic partnership agreement with the European Union, giving Lesotho duty and quota free access to the European market for its products.
- Double taxation agreements exist with South Africa, Mauritius, the United States of America, and the United Kingdom.

## Market Challenges

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- Lesotho is completely landlocked by South Africa, and therefore businesses in Lesotho can only access world markets using South African ports and other infrastructure. Given its small economy and geography, Lesotho would greatly benefit from deeper regional economic integration via SACU and SADC.
- Employers often cite low productivity, especially in the manufacturing sector, as one of their major challenges in operating in Lesotho. The impact of the HIV epidemic is also a serious challenge for employers and employees alike. Some employers in the garment industry have overcome this challenge by having a

medical clinic on site so that workers do not need to take as much leave for regular medical treatment.

- The business community in Lesotho also cites the lack of adequate physical infrastructure, such as good road infrastructure, electricity, and water and sewer services as a serious challenge to operating in Lesotho.

## Market Opportunities

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- The \$1.75 billion Lesotho Highlands Water Project (LHWP) Phase II, a dam and water transfer scheme, is scheduled to begin construction in 2014, offering export opportunities for U.S. businesses. Solicitation of tenders for feasibility studies, roads, and dam and tunnel construction is expected to start in 2014 as well.
- Lesotho meets approximately 80% of its current energy needs with hydroelectricity. The Government plans to expand hydropower capacity under LHWP Phase II and establish wind farms, offering the prospect of an entirely green energy economy within this decade. Lesotho has the potential to supply the Southern Africa grid with its excess power generation. The population primarily lives in small, rural communities which make them a good market for solar energy. The Government is also interested in taking advantage of carbon credits. There are opportunities for technical experts in energy generation and distribution.
- Lesotho imports almost all of its manufacturing inputs and consumer goods. Its primary resources - diamonds, water, wool, and mohair - are exported unprocessed. Opportunities exist to introduce new consumer goods and invest in manufacturing for both local and international markets.
- Tourism is one of the sectors that have significant employment potential; however it is not fully exploited. Lesotho is one of the most pristine and unspoiled natural environments in the region, with spectacular scenery and a huge potential for eco-tourism. The rugged countryside makes Lesotho ideal for off-road sports; Lesotho hosts the "Roof of Africa" motorcycle rally every year. It has the world's longest commercial single-drop abseil at 204m. Other outdoor sports include: canoeing, ski runs, horseback rides, pony trekking, mountain climbing, hiking, fishing, and camping. The Government is interested in attracting more U.S. tourists and U.S. investment in the tourism sector.
- There are opportunities for U.S. business in franchising, such as restaurants, services, and retail shops.
- Opportunities in commercial agriculture include trout farming, livestock, and horticulture.

For U.S. businesses interested in doing business in Lesotho, it is important to have local presence by establishing branch offices, pursuing joint ventures with local businesses, or making use of sales agents. It is worthwhile to establish business relationships before tender opportunities are announced. U.S. firms should seek local partners with an existing reputation in their line of business or a complementary business. For instance, the Lesotho Highlands Water Commission has mentioned that preference for LHWP Phase II tenders will be given to Lesotho, South Africa, and SADC contractors. U.S. businesses interested in this project are encouraged to form joint ventures with local and regional companies in order to benefit from the tenders in this multi-million project. Personal meetings with potential agents are encouraged, and due diligence is recommended to ensure that partners are reliable. The U.S. Embassy encourages prospective U.S. investors to contact the Lesotho National Development Corporation (LNDC), which plays a facilitating role for foreign investors, providing information to prospective investors, arranging for site visits, helping with registration and licensing, and securing premises.

In addition to information in this Country Commercial Guide, the U.S. Commercial Service office in Johannesburg offer many services designed to assist U.S. investors in developing their market entry strategy and to facilitate export experience in Lesotho. For a detailed description of these services, please visit:

<http://export.gov/southafrica/servicesforu.s.companies/index.asp>

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## COUNTRY FACT SHEET: LESOTHO

### PROFILE

Population in 2011 (Millions): 2  
 Capital: Maseru  
 Government: Constitutionalmonarchy

### ECONOMY

	2009	2010	2011
Nominal GDP (Current Billions \$U.S.)	1.7	2.2	2.5
Nominal GDP Per Capita (Current \$US)	899	1,130	1,283
Real GDP Growth Rate (% change)	3.8	5.2	4.9
Real GDP Growth Rate Per Capita (% change)	3.1	4.5	4.2
Consumer Prices (% change)	7.4	3.6	5.6
Unemployment (% of labor force)			
Economic Mix in 2011: 33.7% All Industries; 11.7% Manufactures; 58.5% Services; 7.8% Agriculture			

### FOREIGN MERCHANDISE TRADE (\$US Millions)

	2009	2010	2011
Lesotho Exports to World	628	0	0
Lesotho Imports from World	1,356	0	0
U.S. Exports to Lesotho	16.6	11.3	13.2
U.S. Imports from Lesotho	304	299	384
U.S. Trade Balance with Lesotho	-288	-288	-371
<b>Position in U.S. Trade:</b>			
Rank of Lesotho in U.S. Exports	187	190	196
Rank of Lesotho in U.S. Imports	95	97	102
Lesotho Share (%) of U.S. Exports	0	0	0
Lesotho Share (%) of U.S. Imports	0.02	0.02	0.02

#### Principal U.S. Exports to Lesotho in 2011:

1. Agricultural Products (51.4%)
2. Chemicals (39.5%)
3. Computer & Electronic Products (3.2%)
4. Machinery, Except Electrical (2.6%)
5. Special Classification Provisions, Nesoi (2.5%)

#### Principal U.S. Imports from Lesotho in 2011:

1. Apparel & Accessories (82%)
2. Miscellaneous Manufactured Commodities (17.8%)

### FOREIGN DIRECT INVESTMENT

	2009	2010	2011
U.S. FDI in Lesotho (US \$Millions)	3.0	3.0	3.0
FDI in U.S. by Lesotho (US \$Millions)			

### DOING BUSINESS/ECONOMIC FREEDOM RANKINGS

World Bank Doing Business in 2012 Rank: 136 of 185  
 Heritage/WSJ 2012 Index of Freedom Rank: 161 of 179

Source: Created by USDOC/ITA/OTII-TPIS from many sources: FDI from USDOC, Bureau of Economic Analysis. US Trade from USDOC, Census Bureau, Foreign Trade Division. Lesotho Trade with World from United Nations where available. National Macroeconomic c from IMF/World Bank databases including World Economic Outlook and World Development Indicators. .WORLD and other country aggregates are summaries of available UN COMTRADE, IMF and other data, and coverage varies over time and by source, but typically represents greater than 85 percent of world trade and production. Note: Principal U.S. Exports and Imports Are 3-digit NAICS Categories

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

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

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

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

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

### **Establishing an Office**

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To open a foreign representative office in Lesotho, the firm must first establish itself as a legal entity by registering with proper authorities. The One-Stop Business Facilitation Centre has reduced the time and cost of doing business in Lesotho by housing in one place the various government departments and agencies involved in the registration and licensing of businesses. For registration, the following documents must be submitted:

- 1) a letter of intent to do business in Lesotho;
- 2) a letter of appointment from the company's headquarters;
- 3) the resume of the company's representative; and
- 4) a work permit and proof of identity.

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

For more information on establishing an office in Lesotho, contact the OBFC at:

Director OBFC and Registrar of Companies  
One-Stop Business Facilitation Centre

Ministry of Trade and Industry, Marketing & Cooperatives  
P.O. Box 747  
Maseru 100  
Telephone: (266) 22326647  
Fax: (266) 22310326  
Website: [www.obfc.org.ls](http://www.obfc.org.ls)

## **Franchising**

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Franchising is one business model that has not been explored to its maximum potential in Lesotho. Franchises successfully operate in the sectors of fast food, clothing, office cleaning, motor dealers and repairs, insurance companies, and fuel. A few successful American franchises operate in Lesotho, including Avis Car Rental, Wal-Mart (Game), Federal Express, Coca-Cola, and Kentucky Fried Chicken. There is potential for other U.S. companies, both retail and service-oriented, to expand through franchising. The U.S. Embassy recommends consulting the OBFC for details on how to set up a franchise in Lesotho.

## **Direct Marketing**

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Direct marketing is used in Lesotho for many kinds of products, from insurance to household equipment. Companies such as Avon, Amway, and Herbalife have built large businesses by direct marketing through local distributors. There are companies that offer various marketing and advertising services. The U.S. Embassy, through the commercial services offered to U.S. companies, can help identify reputable companies that offer marketing and advertising services.

## **Joint Ventures/Licensing**

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Joint ventures, especially for large projects, are common. Joint ventures are either formed for limited periods, such as for a specific construction contract, or can be long-term ventures, such as in the mining industry. To start a joint venture or acquire a license to operate in Lesotho, a foreign investor must register with the OBFC. The LNDC also plays a facilitating role for foreign investors, providing information to prospective investors, arranging for site visits, and helping with permits and licenses as well as certain operational problems. For more information on how LNDC can help with joint ventures and licensing, please visit: <http://www.lndc.org.ls>.

## **Selling to the Government**

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Foreign firms may fully participate in government procurement; however, they have to first register as legal entities, applying for trading licenses, and register with the Lesotho Revenue Authority for tax purposes. Government rules and regulations do not give Lesotho nationals preference in bids for goods and services contracts, but the Ministry of Trade and Industry encourages joint ventures. Lesotho is not a signatory to the WTO Agreement on Government Procurement, which means that it is not bound by conditions prohibiting specification of locally-made products in tenders. According to the Lesotho Highlands Water Commission, for the LHWP Phase II preference for tenders will be

given to Lesotho, South Africa, and SADC contractors. Companies from other countries will be considered when a specific skills set is not available locally or regionally.

There is no central online publication or website where government tenders are advertised. U.S. businesses interested in the Lesotho government tenders should regularly check local and South African newspapers.

### **Distribution and Sales Channels**

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Distribution channels are in the form of distribution and sales outlets throughout the country. South African firms dominate the retail and wholesale sector. Most manufacturers distribute their products to wholesalers in Lesotho, who distribute goods to retailers through their chain outlets across the country. Other manufacturers have sales agents who have bonded warehouses to store the products, which are later dispatched to retailers.

Lesotho has air, road, and railway links to South Africa. Distributors use any of these modes to transport products from manufacturers to wholesalers or sales agents in Lesotho.

Value Added Tax (VAT) at the rate of 14% is levied at every stage from producer to consumer, but the final burden is borne by the consumer since producers are allowed to claim back input VAT.

### **Selling Factors/Techniques**

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Purchasing power is significantly concentrated in urban areas, while the majority of the population (80%) lives in rural areas. The majority of Basotho in urban areas are interested in quality, but price still plays a more important role in the purchase decision. Overall, U.S. products are well accepted in the market and are considered of good quality; however, in many instances they must compete against lower priced products, especially from Asia. In order to compete effectively, American companies should foster close relationships and maintain regular communication with representatives, agents, and distributors of their products. A close relationship allows the supplier to keep abreast of the changes and developments in local market conditions and assess the competitiveness of its products. Frequent training and support for after-service activities are also key elements of the success.

There is growing brand awareness, which makes it important for American companies entering the Lesotho market to register their brand names with the Registrar General's office. Companies should also be prepared to invest in marketing to promote their brands.

### **Electronic Commerce**

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Electronic commerce is not widely used in Lesotho; a small - but growing - percentage of the population has access to the Internet. The Ministry of Communications has developed proposals for electronic commerce to be more widely developed. Electronic funds transfers are limited to \$11,000 per transaction for transfers to local bank accounts, while for external bank accounts the limit is roughly \$500,000.

## Trade Promotion and Advertising

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Radio, television, newspaper, billboards, and sponsored sports events advertising are the most common promotion tools for new and existing products and services. Social media and e-mail marketing is becoming increasingly popular, especially for services.

## Pricing

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Prices are generally market-determined. The major exceptions are petroleum products, electricity, and water, whose prices are regulated by the government. U.S. firms should conduct their own market research to obtain consumer preferences, cost of delivery, distribution, and advertising. Price is best developed with advice from local distributors who are well attuned to the competitive factors at play in specific markets. A standard 14% VAT is levied on all goods and services, while a 15% VAT is levied on alcoholic and tobacco products.

## Sales Service/Customer Support

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

## Protecting Your Intellectual Property

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

### Protecting Your Intellectual Property in Lesotho:

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

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Lesotho market. It is vital that companies understand that intellectual property is primarily a private right and that the U.S. government generally cannot enforce rights for private individuals in Lesotho. It is the responsibility of the rights holders to register, protect, and enforce their rights where relevant, retaining their

own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Lesotho law.

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

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

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

- The U.S. Chamber and the American Chambers of Commerce in South Africa
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

## **IP Resources**

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

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at [www.StopFakes.gov](http://www.StopFakes.gov).
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.

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

## Due Diligence

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It is important to conduct due diligence in order to assess the credibility or background of a business prospect. In certain instances the U.S. Embassy can assist American companies with conducting due diligence by conducting a background check. For more information, please contact us at: [MaseruCommercial@state.gov](mailto:MaseruCommercial@state.gov).

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The professional services available in Lesotho's market include: business consulting; car services and rentals; chamber of commerce; banking; accounting; insurance; hotel and meeting services; legal services; office rentals; real estate; security insurance; and business travel. Upon request, the U.S. Embassy can assist American companies with a list of companies, solely as a resource but not as an endorsement, offering a certain services. For more information, please contact us at: [MaseruCommercial@state.gov](mailto:MaseruCommercial@state.gov).

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One Stop Business Facilitation Centre (OBFC): <http://www.obfc.org.ls>

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

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

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

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

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

Ministry of Public Works and Transport: <http://www.mopwt.gov.ls>

U.S. Embassy Maseru: [http://maseru.usembassy.gov/economic\\_section.html](http://maseru.usembassy.gov/economic_section.html)

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

### **Commercial Sectors**

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### **Agricultural Sectors**

- [Aquaculture](#)
- [Horticulture](#)
- [Poultry Farming](#)
- [Livestock Farming](#)

## Manufacturing

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According to the Ministry of Labor Inspectorate and Better Work Lesotho, Lesotho's manufacturing sector is free from child labor. Employers generally respect national and international basic worker rights.

Lesotho has taken advantage of AGOA to become one of the largest exporters of garments to the United States from sub-Saharan Africa. Exports are estimated to have totaled \$310 million in 2012, and the sector employs approximately 36,000 workers. Lesotho's 40 garment factories are primarily owned by East Asian manufacturing conglomerates. These factories import all the raw materials they use to make garments, which means opportunities exist for other upstream industries. Beyond the U.S. market, Lesotho's products enjoy duty free access to SACU and SADC countries, which have a total population of 277 million. U.S. companies can set up manufacturing operations in Lesotho to produce for these regional markets.

With the growth of the apparel industry, companies have begun manufacturing other labor-intensive products in Lesotho, such as compact fluorescent light bulbs, clean cookstoves, and circuit breaker switches. There are also opportunities to manufacture electronics and automotive components.

The LNDC offers comprehensive incentives packages for manufacturing companies. For information on an incentives package for investors, go to: <http://www.lndc.org.ls/incentives/default.php>

### Manufacturing Sub-Sector: Best Prospects

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- Electronics
- Automotive components
- Other labor intensive manufacturing

### Opportunities

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The LNDC is seeking investors for a knit fabric mill in Lesotho. There is a huge demand for knit fabrics in Lesotho and surrounding SADC member countries. In 2009, Southern Africa imported \$170 million worth of knit fabrics from China; Lesotho imported \$51 million in knit fabric. In the same period, 60% of Lesotho's apparel exports were knit garments. There are also opportunities for other upstream manufacturing for the garments sector, such as zippers, buttons, thread, etc.

As Lesotho looks for ways to diversify its industry base outside textile manufacturing, U.S. manufacturers could find opportunities in the manufacturing of electronics, automotive components, cosmetics, plastics, food processing, and other labor intensive manufacturing.

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

## Construction and Engineering

### Overview

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In 2014, the governments of Lesotho and South Africa plan to embark on Phase II of the multi-billion-dollar Lesotho Highlands Water Project (LHWP). Initiated in 1986, the project is designed to capture, store, and transfer water from the Orange River system and send it to South Africa's Free State and Gauteng provinces. Another component of the project is electricity generation for Lesotho: Muela power station was constructed in Phase I, and supplies Lesotho with 72 megawatts of electricity.

Phase II, estimated to cost 14 billion maloti (\$1.4 billion), will include construction of Polihali dam, a tunnel connecting Polihali reservoir to the Katse reservoir, a pump storage hydropower plant, transmission lines, and supporting infrastructure.

### Construction/Engineering Sub-Sector: Best Prospects

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- Engineering and design
- Consultants
- Concrete
- Conveyor systems/lifts
- Cement

### Opportunities

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There will be tenders for dam, tunnel and infrastructure design consultants, as well as studies on the environmental impact. The project is also envisaged to require a large number of engineers; this is an opportunity for U.S. engineering companies to tap into the Lesotho market. Preference will be given to Lesotho, South Africa, and SADC contractors. However, there are opportunities for U.S. companies to form joint ventures with local and regional companies. There will also be opportunities to supply building and construction materials and equipment required for the construction of the dam and the hydropower plant.

For more information on the project and upcoming tenders please visit: <http://www.lhda.org.ls/tenders/default.htm> or <http://www.tcta.co.za/tenders.aspx>

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Lesotho Highlands Water Project: <http://www.lhwp.org.ls/>  
Lesotho Highlands Development Authority: <http://www.lhda.org.ls/tenders/default.htm>  
Trans-Caledon Tunnel Authority (TCTA): <http://www.tcta.co.za>

## Tourism

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Lesotho has spectacular scenery and potential for eco-tourism. The rugged countryside makes Lesotho ideal for off-road sports. The country hosts the [Roof of Africa motorcycle rally](#) annually and is home to the world's longest commercial single-drop abseil and Sub-Saharan Africa's only [ski resort](#).

In addition, Lesotho has good air and road connections with South Africa. South Africa draws large numbers of international tourists, creating an opportunity to attract side-trips to Lesotho. Currently, 93% of visitors to Lesotho are South African.

The tourism industry is being actively promoted by the Lesotho Government, and a number of hotels, mountain lodges and national parks have been developed in recent years. The Lesotho Tourism Development Corporation (LTDC), a government agency responsible for promotion of tourism, supports tourism sector investment and offers limited incentives to the investors. For more information, visit: <http://www.ltdc.org.ls/investments2.php>.

### Tourism Sub-Sector: Best Prospects

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- Boating Excursions on Dams, Canoeing and other Recreational Activities
- Accommodation Facilities and Resort Developments
- Ski-resorts, Equipment and Related Services

### Opportunities

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The tourism sector stands to benefit from the LHWP as existing and prospective LHWP dams create a notable opportunity for water sports and recreational activities.

Another major feature of the country is altitude; Lesotho is the only country in the world which lies entirely 1000m above sea level. Thus Lesotho is an ideal location to develop high altitude sports training facilities. There is also an opportunity in the hotel industry - Lesotho is under-supplied with accommodation facilities of appropriate standards, particularly at key tourism sites. Most tourists from South Africa cross into Lesotho for the day, only to go back to accommodations in South Africa.

For more information on the opportunities and incentives in the tourism sector, please visit the LTDC website at: <http://www.ltdc.org.ls/organisation3.php>

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Lesotho Tourism Development Corporation: <http://www.ltdc.org.ls/>  
Roof of Africa rally: [www.roofofafrica.org.ls](http://www.roofofafrica.org.ls)  
Afriski: <http://www.afriski.net>

## Renewable Energy

### Overview

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According to the Lesotho Electricity Company (LEC), about 18% of households have access to electricity, concentrated mainly in urban areas. Around 1% of rural households have access to reliable electricity. The government has set a goal of increasing the electrification rate to 35% of households by 2015 and 40% by 2020. Lesotho has identified hydropower, wind generation, and solar power as potential renewable energy sources to help reach these targets.

Currently, Lesotho generates 72 megawatts of hydropower through the Muela Hydropower plant, which does not satisfy domestic demand. Lesotho's five diamond mines, which have plans to significantly grow their operations, are not connected to the national grid, relying instead on diesel generators. A proposal to connect them to either the national grid or South Africa's grid would generate great interest. There is potential, and there are plans, to expand hydropower capacity and establish wind farms. The majority of the population primarily lives in small, rural communities, which makes the country a good market for solar energy products.

The government is interested in taking advantage of carbon credits; this may be a business opportunity for consulting companies in renewable energy.

### Renewable Energy Sub-Sector: Best Prospects

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- Electricity generation plants
- Wind farms
- Water turbines
- Wind turbines
- Generators
- Solar panels

### Opportunities

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According to Lesotho's Department of Energy, Lesotho could potentially produce 450 MW in hydropower and several hundred more with wind power. However, only 17% of this potential is being exploited, 96% of it at the Muela hydro-power plant and the rest from mini hydro-power plants at Mantsonyane, Mokhotlong, Tsoelike and Semonkong. Breeze Power, a company owned jointly by the government of Lesotho and Harrison & White Investments, is investigating twelve sites for wind power generation. Energy demand is growing in South Africa and the rest of the region, and Lesotho has the potential to export renewable power. Opportunities exist for U.S. companies in supplying renewable energy products or developing renewable power generation in Lesotho.

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Lesotho Electricity Authority: <http://www.lea.org.ls/>

Lesotho Electricity Company: <http://www.lec.co.ls/>

Lesotho Highlands Development Authority: <http://www.lhda.org.ls/>

Roughly 80% of Lesotho's population depends on the agricultural sector for their livelihoods. However, agriculture's contribution to GDP has declined over the last five years. In recent years, the government embarked on a block farming program to increase production through subsidies and central planning. Despite flagging agricultural production, the government plans to continue these subsidy programs to combat hunger and poverty. Although the government has not been actively seeking investors in the agriculture sector, there are opportunities in aquaculture, horticulture, and poultry farming.

- Aquaculture

Lesotho has two large reservoirs built under the LHWP, and a third reservoir is planned under Phase II. According to feasibility studies, the water in the existing dams offers near perfect climatic and environmental conditions for trout production. As a result, two trout farms, Royale Highlands Trout and Highlands Trout, operate at Katse Dam. Their combined production is 800 tons per annum, and they export the trout to food service outlets in Southern Africa and Asia. There are plans to increase production capacity 3,000 tons per annum. There are opportunities to establish additional farms at Mohale dam, and the proposed Polihali dam.

- Horticulture

Horticulture is growing in Lesotho, and is getting an increasing focus after the implementation of the World Bank-supported Private Sector Competitiveness (PSC) Project. The project has two sub-components: the production of vegetables and the production of fruit trees, specifically apples and cherries. Two South African companies, Alpha Farms and Denmar estates, have partnered with farmers in Lesotho to produce for the Lesotho, South African and EU markets. Due to the country's elevation, good soil, and abundance of water, the quality of the produce is good, and the fruits ripen earlier than in other countries in the southern hemisphere, offering an opportunity to supply the regional market early in the season. In addition, Lesotho's climate is good for mushroom farming, and the kind of mushroom produced in Lesotho is in high demand in South Africa, Botswana and other southern African countries. Lesotho currently does not have processing and packing facilities for these products, so another opportunity exists in food processing.

- Commercial poultry farming

Eggs and chicken are one of the major sources of protein consumed in Lesotho, but the poultry industry is relatively under-developed. Most poultry farmers are subsistence farmers, and their capacity is too low to supply the whole country. There is only one hatchery producing day old chicks and it does not meet market demand; the gap is met by imports from South Africa. There is need to have a fully integrated poultry industry from hatchery to market, including hatcheries, farms and a slaughterhouse. There are opportunities for U.S. companies to establish a fully integrated poultry farming operation in Lesotho or to supply poultry farming equipment such as incubators, chemicals, and slaughterhouse equipment.

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## Chapter 5: Trade Regulations, Customs and Standards

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- [Trade Barriers](#)
- [Import Requirements and Documentation](#)
- [U.S. Export Controls](#)
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- [Labeling and Marking Requirements](#)
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### Import Tariffs

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Due to its membership in the Southern African Customs Union (SACU), Lesotho applies the SACU common external tariff. South Africa generally sets the tariff schedule for SACU in consultation with SACU members, although SACU has been working to establish a tariff board. Tariff rates fall mostly within eight levels ranging from 0 percent to 30 percent, but some are higher, such as for most apparel items.

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

SACU's Common External Tariffs can be found at: <http://www.sacu.int/tradef.php?id=420>

All SACU Member States use similar Customs and Excise Legislation. An electronic version of Lesotho's Customs and Excise Act is found at: [http://www.lra.org.ls/Customs\\_and\\_Excise\\_Laws.php](http://www.lra.org.ls/Customs_and_Excise_Laws.php)

For more information on SACU's tariff regime see the World Trade Organization (WTO) document: [http://www.wto.org/english/tratop\\_e/tpr\\_e/s222-00\\_e.doc](http://www.wto.org/english/tratop_e/tpr_e/s222-00_e.doc)

### Trade Barriers

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According to the World Bank's 2013 Doing Business Report, Lesotho ranked 144 out of 183 countries in the category "Trading Across Borders." The report notes that it requires seven documents to export a product from Lesotho or to import a product into the country. The average time to both import and export is 31 days.

Foreign companies in Lesotho have cited protective tariffs, port congestion in South Africa, customs valuation above invoice prices, import permits, and inefficient bureaucracy as barriers to trade. Transporting goods to and from Lesotho represents a challenge for traders since Lesotho has no direct sea access and has a very small international airport. However, quality facilities are available in Durban, South Africa, and can be accessed by road and rail networks.

Regulatory barriers also exist; for instance, the Agricultural Marketing Act controls the importation of bread, legumes, sugar, eggs, meat, dairy products, fruits, and vegetables. With the exception of eggs, sugar, and legumes, import restrictions include provisions allowing for small consumer purchases made outside the country. The Department of Marketing, under the Ministry of Trade and Industry, monitors the level of production of these commodities and issues import licenses in the event of short supply. National production has never met local demand.

Non-automatic licenses apply to imports of used clothing and vehicles.

## **Import Requirements and Documentation**

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Importers are required to obtain licenses and import permits for restricted goods from the Ministry of Trade and Industry and Ministry of Agriculture. The Lesotho Revenue Authority's Customs and Excise Department also requires that importers register with its office and obtain an importer's code. Customs uses a Single Administrative Document (SAD) to facilitate the customs clearance of goods for importers, and cross-border traders. The SAD is a multi-purpose goods declaration form covering imports, cross border and transit movements. The following are required for shipments to Lesotho:

- Bill of Lading.
- Bill of Entry (SAD Form).
- Certificate of Origin.
- A preferential certificate of origin is required when a foreign importer wishes to claim preferential rates of duty under a certain trade arrangement. The certificate must be in the format prescribed in the relevant trade arrangement.
- Four copies and one original commercial invoice. The invoices must have all data necessary for the importer to make a valid entry and for customs to determine value for duty purposes. Invoices from suppliers will not be accepted as satisfying the requirements of the customs regulations unless they state, in addition to any proprietary or trade name of the goods, a full description of their nature and characteristics together with such particulars as are required to assess the import duty and to compile statistics.
- Three copies of the packing list.
- Import licenses are required for restricted items. Importers must possess an import permit prior to the date of shipment. Failure to produce a required permit could result in the imposition of penalties. The permit is only valid in respect of the goods of the class and country specified. It is non-transferable and may only be used by the person to whom it was issued. Import permits are valid only for the calendar year in which they are issued. Import permits required for specific categories of restricted goods are obtainable from the OBFC.

American businesses interested in exporting to Lesotho are encouraged to engage the services of a reputable freight forwarding/customs clearance agent well versed in Lesotho law. Firms will also have to engage the freight forwarding/customs clearance agents in South Africa because Lesotho relies on South African ports (mostly Durban) for imports.

## **U.S. Export Controls**

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U.S. export controls exist for some items that are exported to Lesotho based on the U.S. Department of Commerce Control List. Such items require a license to be exported to Lesotho based on the Export Control Classification Number and the Country Chart. These items are detailed on the U.S. Department of Commerce's Bureau of Industry and Security website [here](#) and on the U.S. Government Printing Office website [here](#).

The Country Chart, which includes Lesotho, is found in Part 738, while the Control List is found in Part 774.

## **Temporary Entry**

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

## **Labeling and Marking Requirements**

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Only country of origin labeling is required. Lesotho is in the process of establishing a Standards Authority.

## **Prohibited and Restricted Imports**

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Importation of illicit drugs and arms of war is prohibited. Also, as discussed above, there are import restrictions on bread, legumes, sugar, eggs, meat, dairy products, fruits, and vegetables, second hand clothes, and alcoholic beverages.

## **Customs Regulations and Contact Information**

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The Lesotho Revenue Authority (LRA), an agency of the Ministry of Finance, regulates and facilitates international trade by enforcing the Customs and Excise Act No10 1982. Customs procedures and regulations can be found [here](#).

The contact information for Customs:

Lesotho Revenue Authority – Customs and Excise Division,  
Lesotho Government Complex, Phase III  
P.O. Box 1085, Maseru -100  
Lesotho  
Tel: (266) 2231 3796/ (266) 2231 0390  
Fax: (266) 2231 2091

## Standards

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## Overview

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Lesotho does not have a national standards body; the standards and quality assurance section of the Ministry of Trade and Industry is the focal point for standards issues. No national standards have been developed to date. Industries in Lesotho have traditionally relied on the South African Bureau of Standards for voluntary standards facilities and quality and assurance schemes. Lesotho exporters have developed their standards according to the technical quality requirements of importing countries and international standards. Lesotho participates in a regional program on Standardization, Quality, Accreditation and Metrology for SADC. The program aims to harmonize standards across all member states. Foreign companies producing in Lesotho for export have complained about the lack of a standards body in Lesotho and the reliance on South African Bureau of Standards.

## Standards Organizations

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Lesotho is a member of the World Trade Organization.

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

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

## Contacts

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The Department of Standards and Quality Assurance  
Ministry of Trade and Industry, Cooperatives and Marketing  
P. O. Box 747, Maseru  
Lesotho  
Tel: (266) 22324939, Fax: (266) 22310644  
Website: <http://www.trade.gov.ls/departments/standards.php>

**Southern African Customs Union (SACU)** - A customs union of five States: Botswana, Lesotho, Namibia, South Africa, and Swaziland. Under SACU, members enjoy a duty-free trade while on the other hand extending a common external tariff against imports from the rest of the world. As a member of SACU, Lesotho benefits from the free trade agreements SACU has with other countries or trade blocs. For more information about SACU, visit: [www.sacu.int](http://www.sacu.int).

**Southern African Development Community (SADC)** – Lesotho is a member of SADC. SADC aspires to deepen regional integration and sustainable development through four successive phases: a SADC Free Trade Area (FTA), Customs Union, Common Market and the Monetary Union. The SADC FTA was fully implemented in 2012 within twelve SADC Member States, when the maximum tariff liberalization was completed. Angola, Democratic Republic of Congo and Seychelles remain outside the FTA. For more information about SADC, visit: [www.sadc.int](http://www.sadc.int).

**African Growth and Opportunity Act (AGOA)** - Lesotho benefits from AGOA, a unilateral and non-reciprocal program that provides African countries with duty-free access to the U.S. market for more than 6,400 products. For more information on AGOA, visit: [www.agoa.gov](http://www.agoa.gov).

**Cotonou Agreement** - Lesotho is part of the African Caribbean Pacific (ACP) – European Union (EU) Partnership Agreement, which grants non-reciprocal preferential access to the EU market for some ACP products. The country is classified as a least developed country under the Cotonou Agreement and its status is enhanced by the EU's Everything But Arms (EBA) initiative. Under this initiative Lesotho enjoys quota- and duty-free access to the EU market for everything except arms. In addition, Lesotho has recently initialed an Interim Economic Partnership Agreement which will give it significantly improved access to the European Union. For more information on the Cotonou Agreement, please visit: <http://ec.europa.eu/europeaid/where/acp/overview/cotonou-agreement>.

For more information on trade agreements, contact:

The Ministry of Trade and Industry, Cooperatives and marketing  
P. O. Box 747, Maseru  
Lesotho  
Tel: (266) 22324939, Fax: (266) 22310644  
Website: <http://www.trade.gov.ls>

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

Customs: <http://www.lra.org.ls/Customs.php>

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

South African Development Community: <http://www.sadc.int/>

U.S. Department of Commerce's Bureau of Industry and Security: <http://www.bis.doc.gov/licensing/exportingbasics.htm>

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## Chapter 6: Investment Climate

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### Openness to Foreign Investment

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The Government of Lesotho (GOL) maintains a strong commitment to private investment and is generally open to foreign direct investment (FDI). Lesotho does not currently have a specific and overarching FDI policy. FDI policy instruments include the Companies Act of 2011, as well as legislation covering mining, tourism and manufacturing, particularly the textile industry. The Companies Act and the Financial Institutions Act of 2012 are the principal laws that regulate incoming foreign investment through acquisitions, mergers, takeovers, purchases of securities and other financial contracts and greenfield investments. In addition, the GOL has drafted a Competition Bill with the objective of improving the regulation of investments. The GOL intends to pass the bill into law in 2013.

The judicial system is generally independent and procedurally and substantively fair, although Freedom House Southern Africa noted politicization, chronic underfunding and structural problems in its 2012 report “Politics of Judicial Independence in Lesotho.” The judicial system upholds the sanctity of contracts and enforces in accordance with their terms and on a non-discriminatory basis. The government enforces judicial decisions through officers of the court, and if necessary, through criminal proceedings.

Foreign investments are screened in a routine, non-discriminatory manner to ensure consistency with national interests. The lack of local entrepreneurs has meant the government is under no pressure to exclude foreign investment to the advantage of local

investment; virtually all business sectors are open to foreign investors. No government approval is required, and there are almost no restrictions on the form or extent of foreign investment, except investment in small-scale retail and services businesses. Foreigners are not permitted to own or even sit on the boards of these businesses. These restrictions on small-scale services and manufacturing businesses are meant to control immigration. There are no reports of discrimination against foreign investors at the time of investment or after, and private firms do not restrict foreign investment.

The Lesotho National Development Corporation (LNDC), a parastatal reporting to the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM), implements the country's industrial development policies. LNDC provides assistance to host of supportive services foreign investors and publishes information on investment opportunities and services it offers to foreign investors. It also offers incentives such as Long-term loans and 0% tax on profits for manufacturers, assistance with work permits and licenses, and logistical support for relocation. For more information, please visit: <http://www.lndc.org.ls>.

To complement LNDC's activities in assisting foreign investors, MTICM has established a "One Stop Business Facilitation Centre" (OBFC), placing all services required for the issuance of licenses, permits, imports and exports clearances under one roof. OBFC services coupled with the implementation of the Companies Act of 2011 have reduced the number of days it takes to start a business from 40 days to five days. In addition to these improvements, the GOL eliminated the requirements for paid-in minimum capital and for notarization of the articles of association, strengthened investor protections by increasing the disclosure requirements for related-party transactions and improving the liability regime for company directors in cases of abusive related-party transactions and permitted foreigners to own land under the Land Act of 2010. As a result of these improvements, Lesotho climbed 17 places in the 2013 World Bank Doing Business Report, from 153 to 136.

Lesotho's performance in attracting FDI has been credible by regional standards. The bulk of FDI is channeled into the manufacturing sector and most of that investment goes into export activity. Most investment currently originates from Taiwan, Hong Kong, Singapore and South Africa. The single largest investment is believed to be around US\$120 million in capital infrastructure by the Taiwanese Nien Hsing Group. More than fifty percent of FDI flows into export-oriented manufacturing - specifically textiles and apparel for the U.S. market. There are 40 factories specializing in a very narrow range of woven and knit garments. Foreign affiliates have also invested small amounts in footwear, fluorescent light bulbs, electronics, food processing and other manufacturing products such as plastics and card boards. South African FDI is also present in garments factories, hotels, air travel, insurance, telecommunications, financial services and mining. Foreign investors in the apparel industry have created jobs, particularly for females, and contributed to poverty reduction. Current business taxation regulations only partially address investor needs because they predominantly favor investment in manufacturing for export to countries outside the South African Customs Union (SACU). The Government of Lesotho is under pressure to revise relevant laws affecting investors in various sectors. In most aspects of "normal business," foreign investors are on an equal footing with local investors. The investment climate is favorable with regards to currency conversion, monetary transfer policies and lack of undue burdens to investors.

Generally, the GOL continues to recognize the need for the country to be competitive in regional and international markets. To achieve this goal, the government has embarked on structural reforms that aim at improving the investment climate. Initiatives include private sector competitiveness programs under the Millennium Challenge Corporation (MCC) and the World Bank, as well as modernizing customs processes through technical assistance from the USAID Southern Africa Global Competitiveness Hub. Lesotho has no legal provisions that discriminate among home countries. It is a member of the Southern African Development Community (SADC), but this does not lead to preferential treatment for investors from these countries.

Measure	Year	Index/Ranking
TI Corruption Index	2012	45/64
Heritage Economic Freedom	2012	46.6/161
World Bank Doing Business	2013	136
MCC Government Effectiveness	2013	0.59 (93%)
MCC Rule of Law	2013	0.64 (95%)
MCC Control of Corruption	2013	1.10 (98%)
MCC Fiscal Policy	2013	-6.6 (8%)
MCC Trade Policy	2013	69.1 (54%)
MCC Regulatory Quality	2013	0.15 (64%)
MCC Business Start Up	2013	0.961 (84%)
MCC Land Rights Access	2013	0.62 (63%)

## Conversion and Transfer Policies

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There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency and at a legal market-clearing rate. However, for loan repayments an investor needs to notify the Central Bank of Lesotho (CBL) at the beginning of an investment that the capital for that investment is a loan, they also need to disclose the terms of the loan. Dividends payments require CBL approval. According to the CBL, there are no plans to change remittance policies in the near future and there is no difficulty in obtaining foreign exchange by foreign investors. Foreign exchange is easily obtainable; the CBL has authorized the three commercial banks and two private bureau de changes in Lesotho to deal in foreign exchange. However, the CBL still maintains direct power of approval over foreign exchange requirements for all capital account transactions including FDI, capital disinvestment and contracting and servicing offshore debt.

The current average delay period for remitting investment returns such as dividends, return of capital, interest and principal on private foreign debt, lease payments, royalties and management fees through normal, legal channels is two days, provided the investor has submitted all the necessary documentation related to the remittance. There has never been a case of blockage of such transfers, and shortages of foreign exchange that could lead to blockage are unlikely given that the CBL maintains net international reserves of around US\$920 million. Lesotho is a member of the Southern African Common Policy on approval of foreign loans.

Lesotho's fiscal and monetary policies operate within the context of her membership of the Common Monetary Area (CMA). The CMA consists of the following SACU countries: Namibia, Swaziland and South Africa. Under the CMA, the national currency, the loti, is pegged at par to the South African rand, which is also accepted as legal tender in Lesotho. To maintain the rand/loti peg, Lesotho maintains reserves in rand and other foreign currencies. There are no exchange controls between Lesotho and South Africa but CMA members have exchange controls with third countries.

## **Expropriation and Compensation**

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The constitution provides that the acquisition of private property by the state can only occur for specified public purposes. Further, the law provides for full and prompt compensation at fair market value. Affected persons may appeal to the High Court as to whether the action is legal and compensation is adequate. The constitution is silent as to whether compensation may be paid abroad in the case of a non-resident. Currently, there are thirty five cases alleging inadequate compensation of expropriated land for the construction of Metolong dam lodged with the Transformation Resource Center (TRC), a non-governmental organization. The communities affected by the dam approached TRC to mediate between themselves and the Metolong Authority, because TRC mediated disputes around another dam project, the Lesotho Highlands Water Project. None of these cases have been brought to court yet. The government has no history of discriminating against U.S. or other foreign investments, companies or representatives in expropriation. The only local ownership law is the Trading Enterprises Act, which states that a foreigner may not operate a business in a commercial space less than 1,000 square meters.

## **Dispute Settlement**

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Lesotho is a member of the International Center for the Settlement of Investment Disputes and the Arbitration International Investment Disputes Act of 1974 commits Lesotho to accept binding international arbitration of investment disputes. The government has no history of investment disputes involving U.S. or other foreign investors or contractors in Lesotho. Foreign investors have full and equal recourse to the Lesotho courts for commercial and labor disputes. Courts are regarded as fair and impartial in cases involving foreign investors.

The legal system is a mixture of Roman-Dutch and English Common Law. The judicial system consists of the High Court, the Court of Appeal, subordinate courts and the Judicial Service Commission (JSC). The members of the High Court are the Chief Justice, appointed by the King acting on the advice of the Prime Minister, and judges (currently ten including the Chief Justice), appointed by the King acting on the advice of the JSC. The Court of Appeal, which meets semiannually, is headed by a president, appointed by the King acting on the advice of the Prime Minister, and five justices of appeal, appointed by the King, acting on the advice of the JSC. Parliament has the power of establishing subordinate courts and courts-martial. The High Court has unlimited original jurisdiction over civil and criminal matters, as well as appellate jurisdiction from subordinate courts. Subordinate courts, comprising resident magistrate's courts, judicial commissioner's courts, and central and local courts, administer statute laws, while chiefs administer customary and tribal laws. There is no trial by jury. Lesotho has not accepted compulsory International Court of Justice

jurisdiction. A Commercial Court was established in 2010 in an effort to improve the country's capacity in resolving commercial cases. Before the establishment of the Commercial Court, commercial cases used to languish for years, compounded by the fact that there were no specialized judges to deal with commercial disputes. Since the establishment of the Commercial Court, the duration for commercial disputes resolution is, on average, a year. Incidents of government interference in commercial cases are rare.

The Companies Act is the principal commercial and bankruptcy law. According to the law, creditors, equity shareholders and holders of other financial contracts of a bankrupt company have a right to nominate a person to be liquidator, and if the creditors and the shareholders nominate different persons, the person nominated by the creditors shall be the liquidator. All claims against a bankrupt company shall be proved at a meeting of creditors, equity shareholders and the court or the liquidator may fix a time or times within which creditors of the company are to prove their claims. If the claim is rejected by the liquidator, the claimant may apply to the court by motion to set aside the rejection. Creditors who will act as witnesses are entitled to witness fees, to be paid out of the funds of the company, as he would be entitled to if he were a witness in any civil proceedings. Creditors are paid first in a bankruptcy; equity shareholders and holder of other financial contracts then follow. According to the Labor Code, despite the provisions of any other law in Lesotho, workers have the right to recover pay and benefits from local and foreign firms in bankruptcy before creditors, equity shareholders and holder of other financial contracts. Monetary judgments are usually made in the local currency. An amount of a claim based on a debt or liability denominated in a foreign currency shall be converted into Lesotho currency at the rate of exchange on the date of commencement of the liquidation.

Lesotho has entered into a number of investment agreements and these provide for international arbitration to settle disputes. For instance, under the Bilateral Investment Treaty with United Kingdom, an investor may take a dispute with the government to international arbitration. Lesotho is a member of the Multilateral Investment Guarantee Agency and has acceded to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States and New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. Currently there is no legislation providing specifically for the enforcement of these conventions.

## **Performance Requirements and Incentives**

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Lesotho has not notified the World Trade Organization (WTO) of any measure inconsistent with Trade Related Investment Measures (TRIMs) requirements, and has not introduced measures that violate TRIMs obligations. There are no incentives for and no performance requirements imposed on foreign investors as a condition of investment. However, there are a number of financial incentives available to manufacturing companies establishing themselves in Lesotho, such as unimpeded access to foreign exchange, export finance facility and long-term loans. These incentives are applied uniformly to both domestic and foreign investors. For more information, see <http://www.lndc.org.ls>.

The GOL does not follow a policy of "Forced Localization" designed to force foreign investors to increase investment and/or employment in the local economy. However,

foreign investors are required to keep records of local sales and employees' remuneration locally for tax purposes. With the exception of textile companies that export to the United States under the African Growth and Opportunity Act (AGOA), which are bound by SACU regulations to export all their products, there is no requirement that investors purchase from local sources or export a certain percentage of output, or only have access to foreign exchange in relation to their exports. The GOL does not impose "offset" requirements, whereby major procurements are approved only if the foreign supplier invests in manufacturing, research and development or service facilities in the country related to the items being procured. The GOL does not impose conditions on permission to invest, including location in specific geographical area, use of a specific percentage of local content or local equity, substitution for imports, export requirements or targets, employment of host country nationals, legal requirements to use specific employment agencies, technology transfer or local sources of financing. An exception will be in a case where the foreign investor intends to acquire title to land by lease from the State. In such a case, the company will have to have at least 20% local ownership.

U.S. and other foreign firms able to participate in government financed and subsidized research and development programs on a national treatment basis. Requirements for visas, residence permits and work permits are neither discriminatory nor excessively onerous. The procedures for obtaining one of these permits are transparent although foreign investors complain about excessive fees charged. For more information on requirements for visas, residence permits and work permits, please visit: <http://www.trade.gov.ls>

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

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The right to private property is protected under the law. All foreign and domestic private entities may freely establish, acquire, and dispose of interests in business enterprises. Under the Land Act of 2010, foreign nationals are permitted to buy and hold land. Lesotho has no competition law or overall competition regulator. Instead, under the industrial and trading licenses system a business can apply for protection from competition for up to 10 years.

## **Protection of Property Rights**

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Lesotho respects international intellectual property laws and is a member of the World Intellectual Property Organization (WIPO) and the African Regional Intellectual Property Organization. Secured interests in property, both movable and real, are recognized and enforced in Lesotho. The concept of a mortgage exists; mortgages are protected under the Deeds Registry Act of 1967. Secured interests, including mortgages, are recorded and filed by the deeds registry.

Patents are rarely issued in Lesotho but trademark protection is often sought and granted. Intellectual property protection is regulated by the Industrial Property Order 1989 and the Copyright Act of 1989, which conform to the standards set out in the Paris Convention and Berne Convention. The law protects patents, industrial designs, trademarks, and grant of copyright, but does not protect trade secrets and semiconductor chip lay-out design. The Law Office is responsible for enforcement of copyrights.

The Land Act of 2010 protects and facilitates acquisition and disposition of land, while the Deeds Registry Act of 1967 protects and facilitates acquisition and disposition of buildings and mortgages.

Lesotho has not taken adequate steps to implement and enforce the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement due to lack of capacity. However, Lesotho has received technical cooperation (training and workshops) from developed countries such as France and the United States to assist in the implementation of the WTO TRIPS agreement. Lesotho has not signed and ratified the WIPO internet treaties.

## **Transparency of Regulatory System**

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Lesotho's regulatory environment is generally weak, but it does not hinder competition, nor distorts business or investment practices. Businesses in Lesotho are regulated by the Companies Act of 2011, which changed the process of registering private and public shareholding companies in Lesotho. The act has made business registration easy by abolishing the requirement to inspect proposed company premises before registration of the company, eliminating the need for a legal representative when registering a business and providing standard articles of incorporation. The act also envisages electronic company registration, as well as electronic regulatory filing, but the office of the Registrar is not yet set up to facilitate these improvements. Until such time as this has been done, applications for registrations as well as regulatory filings have to be submitted manually. The act also allows foreign companies to register as an external company, and must do so within 10 days of opening a business in Lesotho. The company must nominate a person who is either resident or maintains a full-time office within Lesotho upon whom notices and processes can be served, and register the principal place of business of the company in Lesotho.

Every firm intending to engage in business must obtain a trader's license. The issuance of traders' licenses is governed by the Trading Enterprises Order of 1993, as amended in 1996, and the Trading Enterprises Regulations of 1999, as amended in 2011. Manufacturing licenses are covered by the Industrial Licensing Act of 1969 (which is currently under reconsideration by Parliament) and the Pioneers Industries Encouragement Act of 1969. For the majority of manufacturing license applications, environmental certificates issued by the National Environmental Secretariat (NES) are sufficient. However where manufacturing activities are assumed to have actual or potential environmental impacts, an Environmental Impact Assessment is required, which must be approved by the NES. The introduction of the OBFC improved the industrial and trading license system. Trading licenses are required for a wide range of services; some enterprises can require up to four licenses for one location. The OBFC has also streamlined other bureaucratic procedures, including those for licenses and permits. The GOL has committed to develop the OBFC further to improve the business climate in the country. As part of this effort, the government plans to simplify and expedite the issuance of work, residence and building permits.

The GOL modernized the regulatory framework for utilities through the establishment of the independent Lesotho Telecommunications Authority (LTA) and the Lesotho Electricity and Water Authority (LEWA). LTA regulates the telecommunications sector, while LEWA regulates both the energy and water sectors. The two authorities sets the

conditions for entry of new competitive operators. Currently the LTA allows Lesotho Telecom to maintain a monopoly for fixed-line and international services, while permitting competition in mobile telephone services. The LEWA allows both the Lesotho Electricity Company and the Water and Sewerage Company to maintain monopoly in their respective sectors.

The Mines and Minerals Act of 2005, the Precious Stones Order (1970), and the Mine Safety Act (1981) provide a regulatory framework for the mining industry. The Commissioner of Mines in the Ministry of Mines, supported by the Mining Board, is authorized to issue mineral rights to both foreigners and local investors. On approval, it takes about a month for both prospecting and mining licenses to be issued.

The CBL regulates financial services under the Financial Institutions Act of 2012.

Tourism enterprises are required to secure licenses under the Accommodation, Catering and Tourism Enterprise Act of 1997. The Act provides for a Tourism Licensing Board that issues and renews licenses for camp sites, hotels, lodges, restaurants, self-catering establishments, bed and breakfasts, youth hostels, resorts, motels, catering and guest house licenses. Applicants for any of the above licenses must apply to the Board three months before its next meeting. A number of government departments, specifically the Ministries of Health and Tourism, the Police and the Maseru City Council, must inspect and to submit inspection reports to the Board on prescribed forms. Licenses are granted for one year and can be renewed.

The Parliament's Portfolio Committees may, but are not required to, publish proposed laws and regulations in draft form for public comment. Parliament may also hold public gatherings to explain the contents of the proposed laws and these provide opportunities for comment on proposed laws and regulations. The Portfolio Committees generally make these consultations for laws that are perceived to be sensitive, such as the Land Act, the Penal Code and the Children's Welfare and Protection Act. There are no private sector or government efforts to restrict foreign participation in industry standards-setting consortia or organizations.

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

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In general, Lesotho's capital market is relatively under-developed, with no secondary market for capital market transactions to take place. Current policies do not facilitate the free flow of financial resources to support the flow of resources in the product and factor markets.

Credit is allocated on market terms, and foreign investors are able to get credit on the local market. However, the banking sector is characterized by conservative lending guidelines, high interest rates and large collateral requirements. Few firms are eligible for long-term loans, while small- and medium-sized enterprises have little access to credit. Structural reforms under the private sector development component of the Millennium Challenge Corporation Compact, which includes the establishment of a credit bureau, are expected to alleviate the credit extension problem. The LNDC provides industrial and commercial credit to foreign investors. The private sector has access to a limited number of credit instruments, such as credit cards, loans, overdrafts, checks and letters of credit.

Three South African banks dominate the banking sector, accounting for almost 90% of the country's banking assets, which totaled over M8.2 billion (US\$1.1 billion) in September 2011. According to the CBL, the banking system is sound; the commercial banks in Lesotho are well-capitalized, liquid and compliant with international banking standards.

The regulatory system is not effectively established to encourage and facilitate portfolio investment. The GOL issued treasury bonds at the end of 2010, to more broadly develop capital markets in Lesotho, although there is no secondary market for these bonds. The lack of a stock market also impedes the free flow of capital in the financial system since shares do not trade freely on the market, and there is insufficient liquidity in the markets to enter and exit sizeable positions.

Lesotho does not have a competition commission; as a result, information on cases of cross-shareholding and stable shareholder arrangements is not available.

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

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Lesotho privatized most state owned enterprises (SOEs) including telecommunications, banks and government vehicle fleet following the adoption of the privatization Act of 1995. However, in 2004 the government established the Lesotho Postbank, which is mandated to provide Basotho greater access to financial services. The government also introduced state-owned buses in the public transportation sector in 2008. In addition, the government has announced that it will take over management of its vehicle fleet beginning in 2013 after privatizing the fleet in 2000. In Lesotho, SOEs do not exercise delegated governmental powers, and there are no laws that seek to ensure a primary or leading role for SOEs in certain sectors/industries. SOEs operate under the same tax, regulatory and policy environment as other private business, including foreign businesses.

Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit and other business operations, such as licenses and supplies. SOEs are subject to hard budget constraints under the law and these provisions are enforced in practice. SOE senior management reports to an independent board of directors, although some of the directors may be politically-affiliated individuals. SOEs are required by law to publish an annual report and to submit their accounts to independent audit. SOEs are subject to the same domestic accounting standards and rules as other private investors, and these standards are comparable to international financial reporting standards.

There is no sovereign wealth fund or asset management bureau in Lesotho.

### **Corporate Social Responsibility**

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There is a general awareness of corporate social responsibility among both producers and consumers. Foreign and local enterprises tend to follow generally accepted corporate social responsibility (CSR) principles such as those contained in OECD Guidelines for Multinational Enterprises and the United Nations' Guiding Principles on Business and Human Rights, although the government does not actively promote

adherence to these principles. Firms who pursue CSR are viewed favorably by society, not necessarily by government.

The government maintains and enforces domestic laws with respect to labor and employment rights, consumer protections and environmental protections. There are no independent NGOs operating in the country that promote or monitor CSR.

## Political Violence

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In May 2012, Lesotho held national elections widely regarded as free and fair, followed by a peaceful transfer of power from the ruling political party to the new, three-party coalition. Since the transition, there have been no incidents of political violence. Businesses and foreign investors are not targets of political violence.

## Corruption

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

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

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

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

**Other Instruments:** It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. Lesotho is party to the UN Convention, but generally all countries prohibit the bribery and solicitation of their public officials.

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

**UN Convention:** The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Lesotho is a party to the UN Convention.

**OAS Convention:** In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 34 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>) Lesotho is not a party to the OAS Convention.

**Council of Europe Criminal Law and Civil Law Conventions:** Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-

corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2011, the Criminal Law Convention has 43 parties and the Civil Law Convention has 34 (see [www.coe.int/greco](http://www.coe.int/greco).)

**Free Trade Agreements:** While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.

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

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

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

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

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of

corruption by virtue of being parties to various international conventions discussed above.

No U.S. firms have identified corruption as an obstacle to foreign direct investment in Lesotho. Giving or accepting a bribe is a criminal act under the Prevention of Corruption and Economic Offences Act of 2006, the penalty for which is a minimum of 10,000 maloti or 10 years imprisonment. Local companies cannot deduct a bribe to a foreign official from taxes. Government encourages companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. Most companies have internal controls, ethics, and compliance programs to detect and prevent bribery.

The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The Amendment of Prevention of Corruption and Economic Offences Act of 2006 enacted the first financial disclosure laws for public officials. The disclosure form to be used has been developed but has not yet been implemented. The law may also be applied to private citizens if deemed necessary by the DCEO. Lesotho acceded to the UN Anticorruption Convention in 2005 but it is not yet a signatory to the OECD Convention on Combating Bribery.

There have been reports of corruption in government procurement. For example, the 2008-2009 Auditor General report highlighted irregularities in the procurement of tenders in the Ministry of Health and Social Welfare. Other irregularities were identified within the Ministry of Public Works and Transport, where the Principal Secretary and other Ministry officials are accused of awarding contracts to two companies without complying with procurement regulations.

The international nongovernmental "watchdog" organization that monitors corruption trends in the country is the [Transparency International](#). Under the Transparency International's Corruption Perceptions Index for 2012, Lesotho scored 45 and ranks 64 out of 176 countries.

### **Anti-Corruption Resources**

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

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/departement/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html). See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).

- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009). TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See <http://info.worldbank.org/governance/wgi/index.asp>. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://data.worldbank.org/data-catalog/BEEPS>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/s?s=global+enabling+trade+report>.
- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

## Bilateral Investment Agreements

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Lesotho has bilateral investment protection agreements with the United Kingdom (1981) and Germany (1985). In 2004, Lesotho signed a bilateral investment agreement with Switzerland; the agreement has not yet been ratified. The three agreements are posted in full on the UNCTAD website. Lesotho signed an interim Economic Partnership Agreement (EPA) with the European Union in 2009 while negotiations for a full EPA are ongoing. In 2008, SACU member states and the United States signed a Trade, Investment, and Development Cooperative Agreement (TIDCA).

Lesotho does not have a bilateral investment treaty or a bilateral taxation treaty with the United States and there are no taxation issues of concern to U.S. investors.

Lesotho is a member of the Multilateral Investment Guarantee Agency.

OPIC insured one American-owned company: Lesotho Flour Mills, Seaboard Corporation's joint venture with the Lesotho government. Seaboard started operations in 1998 and currently employs about 300 people. OPIC can encourage United States investors to consider exploring new investment opportunities in other sectors.

Lesotho has been a member of the International Labor Organization (ILO) since 1966 and has ratified 23 international labor conventions, including all the eight fundamental human rights instruments of the ILO. In addition, Lesotho is a signatory to the following Conventions which enable social dialogue to take place: Freedom of Association and Protection of the Right to Organize Convention, 1947 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Workers' Representatives Convention, 1971 (No. 135); Tripartite Consultation Convention, 1976 (No. 144); and Labor Administration Convention, 1978 (No. 150). Lesotho has also ratified the Prohibition and Elimination of the Worst Forms of Child Labor Convention (No. 182) and the Minimum Age of Employment Convention (No.138).

Lesotho's Labor Code Order of 1992 and its subsequent amendments are the principal laws governing terms and conditions of employment in Lesotho. The Labor Code regulates terms of employment and conditions and for worker health, safety and welfare. It was amended in 2006 to include HIV/AIDS policies in the workplace. The law permits union organization. Statutory minimum wages are fixed annually by the Ministry of Labor and Employment with recommendations from a tripartite Wages Advisory Board. The textile and garment industry is sensitive to minimum wage setting because of its need to compete with low labor costs abroad, particularly in Asia. The Labor Court and the Labor Court of Appeal are the key judiciary entities dealing with labor disputes. In addition, the Labor Code Amendment Act of 2000 established the Directorate of Industrial Dispute Prevention and Resolution (DDPR), which is a semi-autonomous labor tribunal, independent of the government, political parties, trade unions, employers and employers' organizations. LNDC is another key institution that deals with labor disputes. The function of LNDC in this realm is to bring parties together before any formal process is set in motion. For example, LNDC intervenes in strikes and tries to reconcile workers and employers. When this informal process fails, the more formal process of the DDPR can be engaged which can consist of conciliation and arbitration.

There is a large surplus of unskilled labor, but skilled labor is in limited supply. To augment the limited supply of skilled labor, the Labor Code allows firms to hire of non-citizens with a work permit. A work permit is issued based on a labor quota formula by the Labor Commissioner who must be satisfied that no qualified Lesotho citizen is available for the position. Within the textile and garments sector, an informal policy permits a company to employ one expatriate worker for every 20 Basotho workers. The statutory maximum duration of a work permit is two years. A work permit may be cancelled before term or renewed.

The 2003 UNCTAD Investment Policy Review has concluded that labor policy and administration is a commendable feature of the Lesotho investment framework; labor policy has focused on sustaining a competitive advantage for Lesotho to attract FDI over other countries in the region.

Lesotho's high HIV/AIDS prevalence rate, estimated at 23 percent of the adult population, has heavily impacted the labor market; companies need to take the health of their workforce into account when making management decisions.

### Foreign-Trade Zones/Free Ports

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Lesotho does not have any free or foreign trade zones. LNDC maintains five industrial areas with direct road links to attract foreign investors. These areas are mainly occupied by foreign manufacturing firms.

### Foreign Direct Investment Statistics

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FDI data is readily available, albeit with a two year lag. The CBL has adopted an international framework for monitoring private capital flows and investor's perceptions through annual surveys. FDI data is available in the Private Capital Flows (PCF) Survey report produced by the Central Bank of Lesotho (CBL). The latest publicly available Private Capital Flows (PCF) Survey report is for 2008. Data represent actual investment, excluding announced but not completed investment. The CBL does not provide FDI data by country of origin, making it difficult to track the United States' and other countries' FDI position in Lesotho.

Table A: Year-end Stock of Foreign Direct Investment in Lesotho for 2008

	FDI Stock
in Million Maloti	1,462.25
in Million USD	169.91

GDP in Million USD 1,530.90 (GDP at 2008 current prices)

Stock as % of GDP 11.1%

Table B: 2008 Direct Investment Capital Flows by Industry Sector

	In millions of USD	% of GDP
Mining and Quarrying	56.52	3.69
Manufacturing	90.78	5.93
Building and Construction	0.39	0.03
Wholesale and Retail Trade	14.27	0.93
Transport and Communications	5.03	0.33
Finance and Insurance	2.47	0.16
Real Estate and Business	0.45	0.03
Total Capital Flows	169.91	11.10

Table C: 2008 Direct Investment Capital Flows by Country of Origin

	In millions of USD	% of GDP
United Kingdom	54.91	3.59
Taiwan	51.10	3.34
South Africa	42.65	2.79
China	8.43	0.55
Netherlands	6.14	0.40
United States	3.46	0.23
Switzerland	2.70	0.18
Belgium	0.45	0.03
Germany	0.06	0.00
Total Capital Flows	169.91	11.10

Table D: 2008 Direct Investment Abroad

Stock in Million Maloti	378.09
Stock in Million USD	43.93
Stock as Percentage of GDP	2.87%

Table E: 2008 Direct Investment Abroad by Industry Sector

Sector	in Millions Maloti	in Millions USD	% of GDP
Manufacturing	330.51	38.40	2.51
Building and Constr.	0.73	0.08	0.01
Wholesale & Retail	23.21	2.70	0.18
Transport & Comm.	8.15	0.95	0.06
Finance & Insurance	14.88	1.73	0.11
Real Estate & Business Services	0.61	0.07	0.00
Total Claims Abroad	378.09	43.93	2.87

Table F: 2008 Direct Investment Abroad by Country of Destination

Country	in Millions Maloti	in Millions USD	% of GDP
South Africa	131.76	15.31	1.00
China	109.39	12.71	0.83
Taiwan	107.84	12.53	0.82
Switzerland	13.87	1.61	0.11
Netherlands	13.55	1.57	0.10
Belgium	1.7	0.20	0.01
Total Claims Abroad	378.09	43.94	2.87

Data sources:

FDI: Central Bank of Lesotho; Report on Private Capital Flows Survey 2008

GDP: Bureau of Statistics; 1999-2008 National Accounts Publications

Exchange rate period; 2008 average 1USD = M 8.606

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

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

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## Chapter 7: Trade and Project Financing

- [How Do I Get Paid \(Methods of Payment\)](#)
- [How Does the Banking System Operate](#)
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- [U.S. Banks and Local Correspondent Banks](#)
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### How Do I Get Paid (Methods of Payment)

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The most commonly used methods of payment in Lesotho are:

- Cash
- Direct Bank Transfers
- Credit cards
- Checks
- Letters of Credit (LC)
- Sales on Consignment
- International Money Transfers

American exporters should offer quotations based on the Free On Board (fob) value at the port of export. As a general rule, such quotations should also include a statement of the actual charges for freight and insurance, plus any additional charges, to the port of delivery. Quotations are usually in terms of the currency of the country of origin. The terms of payment for imported goods vary according to the type of buyer and the buyer's access to capital.

### How Does the Banking System Operate

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Lesotho's banking system consists of the Central Bank of Lesotho (CBL) and commercial banks. The CBL is responsible for management of the country's foreign exchange reserves, administration of exchange controls, and regulation of financial institutions. The banking system is dominated by three South African banks:

- Standard Lesotho Bank: <http://www.standardlesothobank.co.ls/>
- NedBank Lesotho: <http://www.nedbank.co.ls>
- First National Bank Lesotho: <https://www.fnb.co.za>.

All banks offer a comprehensive range of products and services through branch and electronic banking infrastructures. Electronic commerce (e-commerce) is still a new concept in Lesotho; the Ministry of Communications has developed proposals for electronic commerce to be more widely developed, and an e-commerce legislation is being drafted. Electronic funds transfers are limited to \$11,000 per transaction for transfers to local bank accounts, while for external bank accounts; the limit is roughly \$500,000.

Individuals can open local currency accounts with any bank. The bank will require an individual's identity document and proof of residential address to open an account. For businesses, the bank requires an application letter with the specimen signatures of the signatories to the account. Through Lesotho's membership in the Common Monetary Area, the central bank does not give directions as to interest rates, exchange rates margins, or the spread of services offered and the branch network. This creates a low political risk environment for banking investment. According to the IMF, Lesotho's banks are currently well capitalized, and are viewed to be relatively stable.

The Government has passed the Credit Reporting Act 2012, and the Data Protection Act 2012; the two laws create an enabling environment for the Central Bank of Lesotho to establish a credit bureau. The Credit Bureau Project is part of the Private Sector Development component of the Millennium Challenge Corporation (MCC) compact in Lesotho.

### **Foreign-Exchange Controls**

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Exchange controls are currently administered by the CBL. There are three authorized foreign exchange dealers in Lesotho: Standard Lesotho Bank, Nedbank and First National Bank. These banks serve the public from 8.30 a.m. to 3:30 p.m. Monday through Friday; there are no foreign exchange services on weekends and public holidays. All three commercial banks are subscribers to the Society for Worldwide Inter-bank Financial Telecommunications (S.W.I.F.T).

Travel agents, hotels, restaurants, shops, and other persons whose business is directly related to the tourism industry may be authorized to accept at the commercial rate of exchange, foreign bank notes and foreign currency travelers' checks from visitors in payment of goods supplied and services rendered against a written undertaking, such that foreign currency instruments will be sold to an authorized dealer, in exchange no later than the following business day.

Foreign bank notes or other foreign currency instruments such as traveler's checks may be accepted as forms of payment. Visitors to Lesotho are allowed to sell the balance of unused local currency when they leave Lesotho.

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

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There are no U.S. banks operating in Lesotho.

Banks with correspondent U.S. banking arrangements:

- First National Bank Lesotho
- Nedbank Lesotho
- Standard Lesotho Bank

### **Project Financing**

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Sources of project financing in Lesotho:

## Lesotho National Development Corporation (LNDC)

The LNDC offers a host of supportive services to foreign investors which include financial assistance to investors on a selective basis. LNDC will only participate in projects that are technically feasible, financially viable, and well managed.

## Multilateral Development Banks

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

## Export-Import Bank

Ex-Im is an independent U.S. Government agency that helps finance the overseas sales of U.S. goods and services. Ex-Im Bank's mission is to create jobs through exports. The Bank provides guarantees of working capital loans for U.S. exporters, guarantees the repayment of loans or makes loans to foreign purchasers of U.S. goods and services. Ex-Im Bank also provides credit insurance that protects U.S. exporters against the risks of non-payment by foreign buyers for political or commercial reasons. Ex-Im Bank does not compete with commercial lenders, but assumes the risks they cannot accept. It must always conclude that there is reasonable assurance of repayment on every transaction financed. To qualify for Ex-Im Bank support, the product or service must have significant U.S. content and must not affect the U.S. economy adversely. Ex-Im Bank supports the sale of U.S. exports worldwide, and will support the financing of the export of any type of goods or services, including commodities, as long as they are not military-related. For more information, please visit [www.exim.gov](http://www.exim.gov).

## Web Resources

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

Country Limitation Schedule: <http://www.exim.gov/tools/countrylimitationschedule/>

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

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

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

USDA Commodity Credit Corporation: <https://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=sao-cc>

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

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

Standard Lesotho Bank: <http://www.standardlesothobank.co.ls/>

NedBank Lesotho: <http://www.nedbank.co.ls>

First National Bank Lesotho: <https://www.fnb.co.za>

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

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

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## Chapter 8: Business Travel

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### **Business Customs**

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Breakfast meetings are rare, lunches tend to be one hour long, and business meetings are normally held in offices rather than over meals. It is important to reconfirm appointments the day of the meeting. There are often delays and many meetings start or run late.

Business attire in Lesotho is similar to attire in the United States, if slightly more formal. Common terminology used for dress code in business invitations are:

- Black Tie (dark suit and tie or tuxedo or formal evening dress)
- Business (jacket and tie or a business dress)
- Smart Casual (casual clothing with or without tie, but no jeans and no sneakers)
- Casual (includes jeans but no sport shorts)

The currency unit is the loti, which is pegged 1:1 against the South African Rand; the average exchange rate for the period November 2012 to May 2013 was 8.9 Maloti to the dollar. Lesotho uses the metric system for weight and measurements.

### **Travel Advisory**

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For travel advisory information on Lesotho, please click on the link below to the State Department's consular information sheet for Lesotho: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_949.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_949.html).

### **Visa Requirements**

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U.S. citizens travelling to Lesotho require a valid passport. U.S. passport holders on holiday or business visits for periods of up to 180 days do not require a visa to enter into Lesotho. Vaccination for yellow fever is a common requirement and travelers should carry their international vaccination cards with them. For more information concerning entry requirements, travelers may contact the Lesotho Embassy in Washington:

Embassy of the Kingdom of Lesotho  
2511 Massachusetts Avenue, NW  
Washington, D.C., 20008  
Telephone: (202) 797-5533

Visit the Embassy of Lesotho's web site at <http://www.lesothoemb-usa.gov.ls/> for the most current visa information.

For the latest Consular Information Sheet and travel advisory on South Africa, please click on the following links:.

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

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

## **Telecommunications**

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Lesotho's telecommunications network has grown significantly in recent years; however, market penetration is still below the African average. Econet Telecom Lesotho is the only fixed network operator. Econet also provides mobile network services, along with Vodacom Lesotho (VCL). Dial-up is still the most common mode of internet access; however, VCL and Econet also have wireless broadband technology (3G and EVDO respectively).

Lesotho's telecommunication costs rank among the highest in the world.

## **Transportation**

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Travel to Lesotho can either be by road or by air. Moshoeshoe I International Airport (MSU) is located in Maseru, providing regular flights to/from O.R. Tambo International Airport (JNB) in Johannesburg, South Africa. Owning or renting a private car is essential in Lesotho since public transportation is, in most instances, not suitable for U.S. tourists or travelers, with the exception of a few private taxi companies. It is highly recommended that travelers to Lesotho consider pre-arranging and making use of extensive car rental facilities. Avis Car Rental and Europcar operate in Lesotho.

## **Language**

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

## **Health**

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Medical facilities in Lesotho are limited and there is no reliable ambulance service. Specialist care is available in Bloemfontein, South Africa, 90 miles west of Maseru. The U.S. Embassy Maseru maintains a list of physicians and other health care professionals, but the Embassy does not guarantee service or provide recommendations.

Many medicines are unavailable at facilities in Lesotho; travelers should carry with them an adequate supply of necessary medicines and/or prescription drugs, along with copies of their prescriptions. Lesotho has a very high HIV prevalence, currently estimated at 23 percent of the adult population. Travelers should ensure that they are well aware of the associated risks and risk behavior. Additional information on vaccinations and other health precautions may be obtained from the Centers for Disease Control and Prevention's hotline for international travelers at 1-877-FYI-TRIP (1-877-394-8747); fax 1-888-CDC-FAXX (1-888-232-3299), or via the CDC's Internet site at <http://www.cdc.gov/travel>.

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

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The time difference between Lesotho and the Eastern Time Zone of the United States is 7 hours during U.S. Standard Time and 6 hours during U.S. Daylight Saving Time.

Businesses are open Monday through Friday, generally from 08:00 until 17:00. Most businesses close for lunch between 13:00 and 14:00. Banks are open weekdays from 09:00 to 15:30, and on Saturdays from 08:30 to 12:00.

Public Holidays for 2013:

January 1, New Year's Day  
March 11, Moshoeshoe's Day  
March 29, Good Friday  
April 1, Easter Monday  
May 1, Workers' Day  
May 9, Ascension Day  
May 25, Africa/Heroes' Day  
July 17, King's Birthday  
October 4, Independence Day  
December 25 - 26, Christmas

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

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Travelers must declare all goods in their possession with the exception of personal clothing, essential toilet articles and used sporting equipment. In order to be free from declaration, these goods must be for the passenger's personal use and not intended as gifts or to be sold, exchanged, or traded. All articles, used or unused, carried by the visitor as presents or parcels for other persons, must be declared.

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

### **Web Resources**

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

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

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

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

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

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

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

### Contacts

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#### The U.S. Government

- United States Embassy Maseru Website: <http://maseru.usembassy.gov>
- United States Commercial Service in South Africa  
Website: <http://export.gov/southafrica>

#### The Government of Lesotho

- Government of Lesotho (All Ministries) Website: <http://www.gov.ls>
- Ministry of Trade and Industry, Cooperatives & Marketing: <http://www.trade.gov.ls>
- Lesotho National Development Corporation (LNDC)  
Website: <http://www.lndc.org.ls>
- One Stop Business Facilitation Center: <http://www.obfc.org.ls/>
- Lesotho Tourism Development Corporation (LTDC): <http://www.ltdc.org.ls>

#### Private Sector Associations

- Lesotho Employers Association: [http://www.mondorondo.com/oie/en/ioe-members/index.html?tx\\_gsifeuserlist\\_pi1%5BshowUid%5D=81](http://www.mondorondo.com/oie/en/ioe-members/index.html?tx_gsifeuserlist_pi1%5BshowUid%5D=81)
- Lesotho Textile Employers Association Website: <http://www.lesothotextiles.com>
- Lesotho Chamber of Commerce and Industry  
P O Box 79  
Maseru  
Lesotho  
Tel/Fax: (266) 22311066  
Email: [lcci@leo.co.ls](mailto:lcci@leo.co.ls)
- Mohloli Chamber of Businesses: <http://www.mohloli.org.ls/>

### Market Research

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

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

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

<http://www.export.gov/tradeevents/index.asp>

<http://export.gov/southafrica/tradeevents/index.asp>

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## Chapter 10: Guide to Our Services

The President's National Export Initiative aims to double exports over five years by marshaling Federal agencies to **prepare U.S. companies to export successfully, connect them with trade opportunities** and **support them once they do have exporting opportunities**.

The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers
- Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the Federal Government's trade promotion resources for new and experienced exporters, please click on the following link: [www.export.gov](http://www.export.gov).

Embassy Maseru is a partnership post of Commercial Service South Africa. We offer the following services to U.S. companies:

- Gold Key Appointment Service (GKS)
- International Partner Search (IPS)
- International Company Profile (ICP)
- International Buyer Program (IBP)

For more information on the U.S. Embassy Maseru, please visit: <http://maseru.usembassy.gov/business.html>.

For more information on the services the U.S. Commercial Service offers to U.S. exporters, please visit: <http://export.gov/southafrica/servicesforu.s.companies/index.asp>.

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRAD(E)**.

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

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