SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

Technical Report

Swaziland Investment Policy

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Table of Contents

List of Abbreviations and Acronyms			2
Foreword			4
1.	Introduction: Defining Investment Policy		6
2.	Investment Overview		8
3.	Goals and Principles of Investment Policy		10
4.	Investment Policy		14
	A.	Political Stability	14
	B.	The Legal and Regulatory Framework	14
	C.	Macroeconomic Stability	15
	D.	Improving Swaziland's Competitiveness	21
	E.	Investment Promotion	22
	F	Access to Markets	26
	G.	Access to Finance	31
	H.	Investment Incentives	33
	I.	Access to Land	35
	J.	Infrastructure	38
	K.	Utilities	39
	L.	Environmental Compliance	40
	M.	Employment and Labour Practices	40
	N.	Education and Investment	41
5.	Investment Policy Implementation, Monitoring and Evaluation		42
6.	Investment Policy Summary and Action Plan for Implementation		43

List of Abbreviations & Acronyms

ADB	African Development Bank
ADR	Alternative Dispute Resolution
AGOA	African Growth and Opportunity Act
ASYCUDA	Automated Systems for Customs Data
BOO	Build, Own, Operate
BOOT	Build, Own, Operate, Transfer
BOT	Build, Operate, Transfer
CMA	Common Monetary Area
COMESA	Common Market for Eastern and Southern Africa
E	Emalangeni
EC	European Commission
ECGS	Export Credit Guarantee Scheme
EFTA	European Free Trade Association
EIA	Environmental Impact Assessment
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FNB	First National Bank
FSE&CC	Federation of Swaziland Employers and Chamber of Commerce
FTA	Free Trade Agreement/Free Trade Area
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
ICSID	International Center for the Settlement of Investment Disputes
ICT	Information and Communications Technology
IGCSE	International General Certificate of Secondary Education
IIPSC	Investment and Industrial Policy Steering Committee
ILO	International Labour Organization
IMF	International Monetary Fund
MCIT	Ministry of Commerce, Industry and Trade
MDG	Millennium Development Goals
MERCOSUR	*Mercado Común del Sur* (Southern Common Market)
MIGA	Multilateral Investment Guarantee Agency
MOU	Memorandum of Understanding
MPs	Members of Parliament
NBFI	Non-bank financial institution
NGO	Non-Governmental Organization
NTB	Non-Tariff Barrier
OECD	Organization for Economic Development
PPP	Public Private Partnership
PRSAP	Poverty Reduction Strategy and Action Programme
PTA	Preferential Trade Agreement
REC	Regional Economic Community
SACU	Southern Africa Customs Union
SADC	Southern African Development Community
SEA	Swaziland Environmental Authority
SEDCO	Small Enterprise Development Company

SIDC	Swaziland Industrial Development Corporation
SIPA	Swaziland Investment Promotion Authority
SITF	Swaziland International Trade Fair
SME	Small and Medium-Scale Enterprise
TIDA	Trade, Investment and Development Cooperation Agreement
TPU	Trade Promotion Unit
UK	United Kingdom
UN	United Nations
US	United States
USA	United States of America
VAT	Value Added Tax
WTO	World Trade Organization

Foreword

The consensus within the Swazi business, economic, and governmental community is that an investment policy would be beneficial for the country. The government recognizes that investors and the investments they make are a defining contributor to economic growth and represent the backbone on which the welfare of current and future generations of Swazi citizens depends.

Investment policy is not intended as a review of the economy, although it is necessarily based on economic conditions in the country, but as a reflection of the government's approach to generating economic growth through support for investment. Investment policy ranges across a wide spectrum of activities whose end result can be measured by growth in Gross Domestic Product (GDP), in the capital stock of the nation, in employment, output, exports, income and the welfare of society as a whole.

The investment policy is closely coordinated with the government's National Development Strategy, the Poverty Reduction Strategy and Action Programme, the Millennium Development Goals (MDG), and with medium-term budgetary policy. It will thus be the guiding tool for promoting and facilitating private local and international investment in Swaziland.

The benefits from reiterating government policy for investors, both local and foreign, are that these investors will be provided with a transparent public statement that reflects a best-practice investment regime and will thereby be afforded the policy support necessary to create wealth through higher levels of investment. Defining the government's overall philosophical approach and putting in place for all stakeholders the aspirations, beliefs and objectives for investment represents a defining cornerstone for future economic activity in our country.

Investment policy is strongly influenced by the government's economic philosophy, and is, in effect, an expression of the supportive relationship that must exist between the government and the private sector. The policy also impacts on, and is impacted by other policies that are focused on progress in areas such as agriculture and mining, industry, tourism, finance, environment, and education. The investment issues identified herein have been discussed, analyzed, refined, and defined among all stakeholders before setting them out in this Investment Policy. Stakeholders in both the public sector and the private sector have been particularly supportive by providing inputs in the form of their experiences and recommendations into development of the policy,

It is of particular importance that all government stakeholders such as the Ministry of Agriculture, the Ministry of Education, the Ministry of Finance, the Department of Tourism and the Department of the Environment, to name but some, are fully aware of, conversant with, and willing to play a positive role in streamlining the development and implementation of the policy.

It should be clearly understood that while development and implementation of an investment policy will clarify policy issues, it will not automatically result in an increase in investment. But it will indicate a serious commitment to making the environment hospitable for investors by removing administrative barriers to investment, by helping to increase competitiveness, and by eliminating corruption. Such policy-driven improvements will go far in encouraging investors, both domestic and foreign, to locate their businesses in Swaziland.

Prime Minister
Government of Swaziland

1. Introduction: Defining Investment Policy

What is an Investment Policy?

Investment policy is derived from a government's overall philosophical approach to economic development and the objectives it sets for itself in putting in place a series of beliefs or aspirations or objectives that will be the defining cornerstone of future activity in the investment area. By providing a clear and definitive understanding of the government's approach to development, the private sector is provided with a guarantee that it will be supported by government policy in its role in creating employment, raising national income and generating wealth.

Several policies exist that relate in one way or another to investment. The Ministry of Commerce, Industry and Trade's National Policy on the Development of Small and Medium Enterprises (SMEs) is one such policy. Published policies also exist on agriculture, energy, transportation, mining, education, telecommunications, public debt, and privatization, to name but a few. Investment policy exists in Swaziland, although it may not yet be publicly expressed in a formal investment code. For example, foreign investors are guaranteed certain rights as expressed in the law that set up the Swaziland Investment Promotion Authority (SIPA). At other times, policy is espoused through membership in trade blocs such as the Southern Africa Customs Union (SACU); the Southern African Development Community (SADC); and the Common Market for Eastern and Southern Africa (COMESA). These yield substantial benefits to Swaziland and to Swazi companies, as do agreements such as African Growth and Opportunity Act (AGOA), which encourages clothing and other manufacturers to take advantage of the access that is offered to the United States (U.S.) market.

Investment policy, however, should make defining statements in regard to the government's supportive framework for investment, whether this is local investment or foreign direct investment. It therefore touches on the laws governing investment, the guarantees it gives investors, the support services it places at the disposal of investors, the requirements that investors have to conform to, and the incentives it provides to better enable entrepreneurs to create wealth.

Why is an Investment Policy Necessary?

The Act that established the SIPA states that one of SIPA's objectives is "to initiate, co-ordinate and facilitate the implementation of government policies and strategies on investment." Because Swaziland does not have a written-down policy on investment, this makes SIPA's operations difficult, since time has to be spent on issues, often difficult issues that could be contained, defined, and clarified within an investment policy.

Lack of a clear investment policy also reduces the country's marketing potential since it can be viewed as a lack of commitment at government level towards investment and economic development. Furthermore, lack of an investment policy extends beyond SIPA to the wide number of organizations SIPA deals with, including those concerned with agriculture, tourism, manufacturing and services. For example, access to land on which to build a factory or a hotel is not readily available. The inability of foreigners to purchase land in Swaziland is expressed in the Constitution of 2005, although it is also stated therein that this constitutional provision should not present a barrier to development. SIPA, accordingly, must be able to access land for building. Otherwise, foreign investors can be faced with considerable uncertainty when the question of access to land arises.

Policy clarifies issues. Increases in investment, whether these are in agriculture, manufacturing or services, depend on a whole host of other factors, many of which the government has no control over, or is not in a position to influence. The government, for example, cannot force an investor to locate in Swaziland but it can indicate a serious commitment to making the environment hospitable for investors by removing administrative barriers to investment, by helping to increase competitiveness, and by eliminating corruption. Such policy-driven improvements will go far in encouraging investors to locate in Swaziland.

How has the Policy been Developed?

The Public Policy Co-Ordination Unit of the Office of the Deputy Prime Minister has specific guidelines in place for developing public policy and this model has been followed in drafting this investment policy. These guidelines state that the process should be viewed as a continuous cycle of which policy formulation is only one stage. The stages are as follows:

- Policy Process Initiation, whereby the mandate to develop the policy is provided, there is consultation with key players, and a preliminary objective is set;
- Policy Process Design, whereby agreement on the process is developed, goals and objectives are set, and institutional arrangements are made;
- Policy Analysis, whereby issues are prioritized, and a set of value judgments is made;
- Policy Dialog, whereby the policy is disseminated and stakeholder dialog is carried out;
- Policy Formulation, whereby the policy is drafted, there is further stakeholder dialog, and the draft policy is submitted to the Public Policy Coordination Unit;
- Policy Decision, whereby Cabinet Approval is obtained for the Policy;
- Policy Implementation, whereby the policy is translated into strategy and an action plan is implemented; and finally,
- Monitoring and Evaluation, whereby a monitoring process is developed and implemented.

The need for an investment policy was identified in the Investor Roadmap for Swaziland in 2005, and the process was initiated through a mandate provided to SIPA by the Minister for Commerce, Industry and Trade, and the preliminary objective of developing a policy analysis paper set. This was further enunciated in an Investment Policy Issues Paper in 2008, and elaborated on in a Stakeholder Workshop in 2009 that included wide representation from both the public and the private sectors. Under the guidance of the Investment and Industrial Policy Steering Committee (IIPSC) which again included members from the public and private sectors, a series of Working Groups considered and made recommendations on technical issues identified in the draft policy. The recommendations emanating from these *fora* were instrumental in developing this Investment Policy.

2. Investment Overview

- **International Economic Conditions**

As the world approaches the end of the first decade of the third millennium, economies are suffering from an overall decline in economic growth that began in the U.S. and quickly spread throughout the rest of the world. Growth in the U.S., which accounts for almost 23% of the world economy, contracted from +2.7% in 2007 to -3.13% in 2009, while unemployment has risen to 10.2%. In Europe, production and exports have both declined while Japan's economy, which was stagnant through much of the 1990's suffered from a worldwide decline in demand for its exports which reduced growth in GDP by 12% in 2008. China and India have also experienced a slowdown in growth. In the region, our most important market, South Africa, has been negatively impacted by weaker world demand for manufactured goods, and declines have also been experienced in mining, retailing and tourism. South Africa is by far Swaziland's largest trading partner accounting for around 90% of imports and more than 60% of exports.

As with all small open economies Swaziland is dependent on outside economic forces. In periods of economic expansion, countries like Swaziland can thrive when investment increases; in periods of recession, they suffer as investment activity declines. According to the International Monetary Fund (IMF), Swaziland is being adversely affected by the second round effects of the global economic downturn, albeit to a lesser extent than similar small open economies. The Swazi economy has experienced real GDP growth of just over 2% on average for most of this decade, although an improvement to 3.8% was noted in 2007. Real GDP growth decelerated sharply in 2009 while remaining positive at 0.4 percent, largely on account of a contraction in manufacturing and mining. This lags behind other SACU members.

Increasing GDP growth is thus a major area of focus for the government. Growth requires new investment in the form of reinvested profits, new domestic investment, and the attraction of foreign investment. Generally, Swaziland offers conditions that favor investment in terms of macroeconomic and political stability, moderate inflation and reasonable interest rates. On the other hand, Swaziland is a small local market with a modest income per capita; it suffers from unemployment and underemployment; and faces severe regional competition for new investment. These big-picture issues need a focus in the Investment Policy, but more definitively, require specific interventions to render the enabling environment more investor-friendly to ensure that Swaziland is as competitive as possible in a challenging investment environment.

- **Economic Conditions in Swaziland**

In this small, landlocked economy, subsistence agriculture, fisheries and farming occupies about 70 per cent of the general populace. The industrial manufacturing sector has diversified since the mid-1980s. Sugar and wood pulp remain important foreign currency exchange earners. In 2007, the sugar industry increased efficiency and diversification efforts, in response to a 17 per cent decline in European Union (EU) sugar prices. Mining has declined in importance in recent years with only coal and quarry stone mines remaining active.

Swaziland's real economic growth declined to an estimated 2.6 per cent in 2008, down from 3.5 per cent in 2007. The slowdown was a result of weak private investment, poor implementation of the public investment programme, and lower demand for exports. The global slowdown is expected to hit Swaziland's exports and access to capital, and so reduce growth further to 2.5 per cent in 2009 and 2 per cent in 2010.

The government recognizes that boosting and sustaining growth requires a strong private sector. Private sector development is thus an integral part of the government's economic growth agenda, which thus recognizes the need to continue its efforts at fiscal policy and structural reforms; securing greater market access in regional and multilateral trade programmes, improving labour productivity by focusing on skills development and curbing the spread of HIV and AIDS; and enhancing the regulatory framework.

Swaziland continues to face enormous social challenges. In particular the prevalence of HIV/AIDS is high and if the pandemic is not addressed, growth will decline due to a human capacity problem. Moreover, the incidence of poverty stands at an estimated 69% and income distribution is highly skewed with 55%of income going to the richest 20% of the population and 4.3% going to the poorest 20%. The government's Poverty Reduction Strategy and Action Programme (PRSAP), which was approved in May 2007, seeks to reduce poverty to 30% by 2015 in line with the MDGs and to absolutely eradicate it by 2022. Other targets of the PRSAP include creating jobs, improving service delivery, fighting HIV/AIDS and improving access to education. Swaziland's need to increase the number and size of small and medium enterprises and attract Foreign Direct Investment (FDI) is thus acute.

- **Investment Conditions**

With an area of some 17,000 square kilometres, and a population of just over 1 million, Swaziland is the smallest country in southern Africa. It is classed as a medium-development country by the United Nations (UN) and as a lower middle-income country by the World Bank. With a limited domestic market, Swaziland relies heavily on export-based agricultural commodities and industries. As a result, growth and development are influenced by climatic conditions, global trends and commodity prices, as well as capital and aid flows. Swaziland's ratio of imports and exports to GDP is one of the highest in the world.

As a result of low per capita incomes, and limited international reputation as a destination for foreign direct investment, the country has not traditionally had sufficient appeal to investors as an amenable location for setting up an enterprise that would serve as a springboard for exports into the regional markets of SADC, SACU, COMESA, or the wider markets of the United States of America (USA) and Europe. Swaziland's position as a small, landlocked country bordering on South Africa and Mozambique also makes it heavily dependent on its neighbours for access to the sea and to world markets, and for supplies.

Swaziland however, is home to more than fifty companies from the USA, the United Kingdom (UK), Japan, the Republic of China (Taiwan), Germany, and South Africa. Such international companies, all with stellar reputations and highly socially-responsible company policies – companies who are in Swaziland for the "long haul" – see the country as very hospitable to investors; as having a good supply of relatively well-educated labour; excellent infrastructure; good access to the ports of Richards Bay, Durban and Maputo, competitive wage rates, high productivity, a generally supportive operating environment; and most importantly, good access to regional and international markets. Swaziland also enjoys direct air links with major airports in the Southern African region including Johannesburg, Durban, Dar es Salaam, Nairobi, and Maputo.

International companies and their executives also indicate that they have been made welcome in Swaziland, are happy to live in Swaziland, and would encourage others to do so. This is a benefit that must be recognized and taken advantage of – it is a well-recognized technique for investment promotion, and is frequently utilized in countries that are considered successful in promoting investment.

3. Goals and Principles of Investment Policy

Goals of Investment Policy

The government's objectives in instituting an investment policy are strongly correlated with the features in the economy that create greatest concern.

- **Increased Levels of Investment**

  Investment is essential to economic growth. Foreign investment, in particular, has been weak in recent years, and economic growth has been lower than the rate of inflation, the net result of which is a lowering of national living standards. New investment is needed to boost national output and national income, with the profits from growth used for further investment that will be aided by investment incentives.

- **Increased Employment Opportunities**

  Excessive unemployment diminishes the ability of Swazi citizens to enjoy a lifestyle that is, above all, free from hunger. It is furthermore wasteful of Swaziland's greatest resource, its labour force. The Government's first objective in promoting investment is to create the conditions that are basic to increasing gainful, reasonably well-paid employment in the country.

- **Encouragement for Higher Levels of Profitability**

  The government seeks to encourage profitability in new investments. Profitability is necessary for growth; its contribution to the exchequer through increased tax revenue is fundamental to growth; and its ability to fund expansion through reinvestment contributes further to the growth/profitability/reinvestment/growth cycle.

- **Export Development**

  The government notes the significant opportunities available for export development in regional markets, as well as the opportunity to take advantage of EU and U.S. markets for certain products. Export growth is of fundamental importance to Swaziland because of the limited domestic market. Increases in exports also increase foreign exchange earnings and reduce the balance of payments deficit.

- **Increased Levels of Management Skills**

  A further objective is to increase the level of management skills that new investment, especially FDI brings with it. Management education has not been a strong point in Swaziland, where a disproportionate number of university graduates have degrees in social sciences or law, but not in management, engineering or science.

- **Promotion of New Technology**

  An increase in the level of technology in the country is important. By and large, FDI brings new technology, and this technology is often important as a spur to developing local entrepreneurship.

- **Encouragement for SMEs Growth**

  The government is actively promoting a strong linkages programme to enable local entrepreneurs to take advantage of the opportunities available in supplying goods and services to new and existing international and local industries. These opportunities not only bring additional employment to SMEs, but add new skills to the labour force, and generate multiple opportunities for growth for small local companies.

Principles of Investment Policy

The government's investment policy is based on the following principles:

- **Political Stability**

  Political stability is guaranteed in Swaziland through the dual system of government which combines the modern and the traditional, with His Majesty, King Mswati III as its Head of State.

- **A Supportive Legal and Regulatory Framework**

  The attractiveness of Swaziland for investment will be underpinned by a supportive legal and regulatory framework in which investment is welcomed from any source and from any country, where investors are free to invest in any sector of the economy except for a small number of areas deemed sensitive or which are reserved for Swazi citizens, while every investment is provided with a government guarantee against expropriation. This principle is espoused in the Swaziland Investment Promotion Act of 1998.

- **Macroeconomic Stability**

  The economic philosophy espoused by the Government of Swaziland is the free enterprise system, and this has sound economic management as the basis for creating an attractive macroeconomic environment that is necessary for increasing investor confidence. Stability of the macroeconomic environment is the guiding principle behind the government's management of the national economy. This is often considered to be the most important driver for new investment.

- **Improved Competitiveness**

  A country's competitiveness is an important measure of how well it supports investment. The government is committed to the enhancement of Swaziland's competitiveness by focusing on improving the investment climate.

- **Support for transparency**

  The government is fully supportive of policies and programs to increase transparency and encourage openness, to fight corruption, especially in the public service, to streamline procedures for the purpose of making it easier to start and run a business, and eliminate administrative bottlenecks to reduce the transaction costs of doing business.

- **Support for Investment and Export Promotion**

  Investment promotion is an investment in Swaziland's future and SIPA, Swaziland's national investment promotion agency must be provided with the resources to enable it to operate effectively especially in attracting investment that will be focused on taking advantage of these external markets. Export promotion is needed to supply the international marketing skills that typically lacking in smaller companies.

- **Provision of Incentives for Investors**

  Swaziland considers that investment incentives are necessary to support companies starting up in business as well as encouraging investors to select Swaziland as an investment location. This includes tax incentives, but also requires that investors can enjoy the stability that membership in the Common Monetary Area brings, with exchange controls that are not onerous, and whose profits are not doubly taxed because of Swaziland's double taxation agreements with its main trading partners.

- **Access to Markets**

  The Swazi market is, in general, insufficiently large for foreign investors to consider, but the country's membership in SACU, SADC and COMESA provides access to a very large regional marketplace and its access to other markets, notably the EU and the U.S. under the AGOA initiative are other important markets. This is a considerable advantage in promoting investment in priority sectors.

- **World Class Infrastructure** Swaziland has much to be proud of in its infrastructure. The road network is especially good, a rail network is in place to ship goods to ports in South Africa and Mozambique, and a new airport is under construction and is scheduled completion in the 2010/2011 fiscal year. It is the government's responsibility to ensure that there is adequate physical infrastructure to support private sector growth.

- **Development of Industrial Estates**

  The government intends to enhance investor facilitation by means of additional access to serviced sites in industrial estates. Industrial estates have proven to be significantly important to Swaziland's industrial development in the past.

- **Improved Utility Supplies**

  Adequate water, energy, and telecommunications supplies are essential to promoting investment. Continuous improvements to utility supplies are a key area for government support.

- **Environmental Protection**

  Swaziland's natural beauty is well-recognized, and the quality of the country's natural resources must be protected. In taking advantage of the benefits, investors must also abide by the country's rules for protecting the environment.

- **Employment and Labour Markets**

  Swaziland's most important resource is its people. The current level of unemployment stands at an official 28.2%. The government is committed to putting in place systems and services that will enhance employment, reverse the brain drain, and utilize the undoubted ability of the labour force to contribute to economic development and public welfare by encouraging the provision of well-paying jobs, and to encouraging employers to maintain good labour relations.

- **Investment and Education**

  Education improves livelihoods through knowledge, skills and the confidence to participate in and benefit from the country's economic development. The government is committed to ensuring that the educational system serves the needs of the country by matching demand for an educated populace with the needs of those who will employ the educational system's graduates.

4. Investment Policy

A. Political Stability

The government notes the importance of political stability to inflows of foreign direct and portfolio investment as well as locally-generated investment. Accordingly, the government emphasizes its commitment to and support for the private sector and free markets as well as support for tradition and custom. Both systems can and do work well together in Swaziland without either one encroaching on the other.

Swaziland is a Monarchy that achieved its independence from the UK in 1968 and has been ruled by His Majesty, King Mswati III since 1986. According to Swazi law and customs, the King holds supreme executive, legislative, and judicial powers. In general practice, however, the King's power is delegated through the cabinet and through Swaziland's traditional systems. The country thus has a unique combination of western (Roman-Dutch) and traditional legal systems.

On July 26, 2005, His Majesty King Mswati III ratified Swaziland's Constitution and this went into effect on February 8, 2006. The new Constitution seeks to support good governance, the rule of law, and gender equality. Although there have been some controversies surrounding governance issues in Swaziland, the government is committed to addressing these in order to improve the image of the country and to improve investor confidence. In 2008 the country held elections under the new constitution, and new Members of Parliament (MPs) gave parliament a fresher look.

B. The Legal and Regulatory Framework

The Government views it as essential to have a supportive legal and regulatory framework for investment which, at the same time, is mindful of the essential interests of the State. This framework should be sufficiently attractive to investors by offering them credible guarantees of security and stability for their investments, as well as establishing clear rules and procedures for all approvals. In light of this, there is a need to ensure that the legislation in force is sufficient to protect the interests of the Swazi people as well as the interests of local and foreign investors in Swaziland.

B.1 General Principles Espoused in the Investment Promotion Act of 1998

The Swaziland Investment Promotion Act of 1998 which set up SIPA also sets out general principles in regard to investor treatment and deals with protection of investment and settlement of investment disputes.

Legislation in regard to investment has to reflect the government's attitude to investment, and recognize its role in increasing employment and accelerating economic growth. An investment law should treat both foreign and domestic investors equally, be attractive to investors, and should provide only those fiscal facilities that are affordable.

The government notes that good practices codify market-driven (or efficiency-enhancing) attributes to encourage sustainable investment over the long term. These legislative provisions embrace national treatment principles applied to ownership, freedom to invest in any sector except for a short negative or restricted list, the protection of private property, the free transfer of funds, enforcement of contracts, and effective alternative dispute resolution (ADR) mechanisms.

B.2 Openness to Investment in any Sector

Swaziland is an open economy guided by free market principles. The Government is therefore committed to the encouragement of foreign and local investment in all sectors of the economy aside from a limited number of prohibited industries which are as follows:

- Manufacture of firearms, ammunition, chemical and biological weapons, and other defense weapons;
- Manufacture involving radioactive materials;
- Manufacture of explosives;
- Manufacture involving hazardous waste; treatment or disposal; and
- Security printing and minting.

B.3 Minimum Investment Requirements

Investments in Swaziland which meet the following financial modalities are permitted access to incentives and facilities.

- Domestic investors shall subscribe a minimum amount of $50,000; and
- Foreign investors irrespective of nationality shall subscribe a minimum of $100,000.

B.4 Types of Investment

All types of private investment are admissible in Swaziland, unless such investment contravenes Swazi legislation.

Operations of domestic investors may be carried out by means of:

- Use of the national currency or any freely convertible currency;
- Use of technology and technological know-how;
- Use of machinery and equipment;
- Equity holdings in Swazi companies;
- Investments deriving from loan capital;
- Incorporation of new enterprises;
- Expansion of existing enterprises;
- Acquisition or purchase of all or part of existing enterprises or groups of enterprises;
- Acquisition of holdings in new or existing enterprises or groups of enterprises;
- Participation in consortium agreements, associations, joint ventures, and equity shareholdings;
- Total or partial takeover of commercial and industrial establishments through the acquisition of assets, or through the assignment of business operations;
- Total or partial takeover of agricultural companies through leases or any agreement that involves the exercise of possession and operation rights by the investor;
- Construction and operation of real estate complexes for industrial development, retailing, tourism or other purpose, in whatever legal form;
- Provision of supplementary capital contributions, shareholder advances, and loans associated with profit-sharing;
- Acquisition of immoveable property located in the national territory;
- The granting, in specific cases, and on terms agreed and permitted by the relevant authorities, of land use rights, rights related to patented technologies and registered trademarks, where the remuneration is limited to the distribution of profits derived from the business in which such technologies and trademarks have been or are applied; and
- Assignment of the operation of rights over concessions and licenses and rights of an economic, commercial or technical nature.

Operations of foreign investors in Swaziland may be carried out by means of:

- The importation of foreign capital in the form of freely-convertible currency into Swaziland;
- The importation of technology and know-how;
- The importation of machinery and equipment;
- Capital holdings in enterprises existing under Swazi Law which are located in Swaziland;
- Capital which has been obtained through loans granted outside Swaziland;
- Setting up or expansion of branch offices or other forms of corporate representation of foreign companies;
- Incorporation of new companies wholly owned by a foreign investor;
- Acquisition of all or part of existing companies or groups of companies and subscription and acquisition of capital in new or existing companies or groups of companies, in whatever form;
- Participation in consortium agreements, associations, joint ventures, and equity shareholdings, and any form of association permitted in international trade;
- Total or partial takeover of commercial and industrial establishments through acquisition of assets or through assignment of business operations;
- Total or partial takeover of agricultural companies, through leases or any agreements which involves the exercise of possession and operating rights by the investor;
- Construction and operation of real estate complexes for industrial development, retailing, tourism or other purpose, in whatever legal form;
- Provision of supplementary capital contributions, shareholder advances, and loans associated with profit-sharing; and
- Acquisition of immoveable property located in the national territory.

B.5 Investment Approval

New investments and expansions to existing investments are subject to approval from SIPA and where necessary in conjunction with other agencies or Ministries. No application forms are required to be completed but SIPA issues guidelines for the approval process. In particular, the potential investor must submit a comprehensive business plan including a cash flow forecast so that the economic benefit of the business proposed can be ascertained. SIPA also carries out a credit check on the applicant. An Environmental Clearance Certificate must be obtained from the Swaziland Environmental Authority (SEA) to ensure that the project is environmentally friendly. An environmental impact assessment (EIA) may be required in certain cases. Approval from line Ministries such as Agriculture are required for agro-business and related businesses, and Natural Resources for investments in mining and forestry.

SIPA, in conjunction with its parent Ministry, the Ministry of Commerce, Industry and Trade is responsible for final approval of the investment. The length of time needed to process an application depends on the nature of the business. The final step in the process is for SIPA and the investor to sign a Memorandum of Understanding (MOU), at which point the investor is free to commence operations.

In addition to the formal approval process, SIPA is obliged to maintain a register of investors that includes the following information for each investor:

- The name and address of the investor;
- The natures and location of the enterprise;
- The number, roles and nationality of senior managers resident in Swaziland;
- The total number of employees in Swaziland; and
- The amount of the investment.

B.6 Investor Registration

The government requires all companies doing business in Swaziland to be registered. Company registration is relatively straightforward. By law, only a lawyer can register a company, so investors are rarely involved directly in the process.

The government has taken steps to make it easier to register a business. The main objective of the Companies Bill is to streamline the constitution, incorporation, and registration of companies. The act also improves the management, administration and dissolution of companies and puts Swaziland’s corporate laws in line with regional and international standards.

B.7 National Treatment for all Investors

The majority of Swaziland's largest businesses are owned by foreign investors, either fully or with minority participation by Swazi institutions. There are no restrictions on foreign ownership that are discriminatory against foreign investors. Both foreign and domestic private entities have a right to establish businesses, and acquire and dispose of interests in business enterprises. Companies and enterprises incorporated in Swaziland for the purpose of obtaining facilities and incentives for private investment qualify for all legal purposes as companies and enterprises existing under Swazi law and are subject to general Swazi Law, except as otherwise provided for in specific legislation.

B.8 Guarantees against Expropriation

The government recognizes the risks taken by investors, particularly foreign investors. The Government accordingly guarantees that it will not expropriate private property or take measures that will have a similar effect, except for a public purpose and on a non-discriminatory basis and with the prompt payment of adequate compensation. Protection against deprivation of property is espoused in the Constitution of Swaziland under Article 19 which states that:

(1) A person has a right to own property either alone or in association with others.
(2) A person shall not be compulsorily deprived of property or any interest in or right over property of any description, except where the following conditions are satisfied:
   (a) The taking of possession or acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality, or public health;
   (b) The compulsory taking of possession or acquisition of the property is made under a law which makes provision for –
      (i) Prompt payment of fair and adequate compensation; and
      (ii) A right of access to a court of law by any person who has an interest in or right over the property;
   (c) The taking of possession or the acquisition is made under a court order.

The government espouses full protection against expropriation in the Investment Promotion Act of 1998 whereby investors are offered full protection from compulsory acquisition, except under the following circumstances:

(1) In accordance with applicable legal procedures;
(2) In pursuance of a public purpose;
(3) Without any form of discrimination on the basis of nationality; and
(4) Upon prompt payment of adequate and fair compensation.

B.9 Free Transfer of Funds and Capital

Best-practice provisions that guarantee the free transfer of all funds, including capital, profits, and wage payments, promote expanded investment opportunities. Once a private foreign investment has been made, and on proof that such investment has been made in accordance with Swazi law, the Government guarantees the rights of the investor to transfer abroad subject to the foreign exchange legislation the following:

- Dividends or profits distributed on submission of documentation (including latest annual financial statements of the company concerned), subject to provision for the non-resident shareholders' tax of 15%. However, local credit facilities may not be utilized for paying dividends;
- Royalties or other earnings resulting from indirect investments such as patents or technology transfer agreements;
- Proceeds resulting from the liquidation of investments, including capital gains, after payment of any taxes that may be due. Capital gains are not taxed in Swaziland; and
- Any sums that may be due as a result of dispute settlement whether carried out within or outside of the national territory.

B.10 Project Implementation

Implementation of investment projects in any municipality or industrial zone or estate must commence within the deadlines established in the SIPA MOU. In cases where this is not possible due to extenuating circumstances, this deadline may be extended by agreement with SIPA.

Projects must be implemented and managed in strict compliance with the terms of the investor's MOU with SIPA, and with the legislation in force. Contributions from investors may not be applied in a way or for a purpose other than that for which they have been authorized, and may not be diverted from the objective for which they have been authorized.

Usage of lands for which projects have been approved may not be diverted to alternative uses through sale or sub-lease or any other form of sub-letting. Non-compliance may result in forfeiture of all rights to the said property.

B.11 Dispute Settlement

The government has a good record of handling investment disputes expeditiously. Official government intervention/arbitration is available upon request, but most investment disputes are handled within the judiciary system, usually through the Industrial Relations Court. Most investor disputes are employee related.

Swaziland has a dual legal system that is comprised of Roman-Dutch law and customary law. In addition to a Western-style court system, Swaziland's traditional courts, with His Majesty the King as supreme authority, are available for dispute settlement although disputes can be transferred to the formal court system at the option of either party to a dispute.

The government recognizes that successful economies around the world share the emerging best-practice characteristic of providing investors with effective ADR mechanisms consistent with the International Centre for Settlement of Investment Disputes (ICSID) Convention. Swaziland has been a member of ICSID since 1971 and is also a member of the Multilateral Investment Guarantee Agency (MIGA).

Instead of having their business operations handled by local courts, the Government recognizes that foreign investors should have easy access to speedy ADR mechanisms (*e.g.*, international arbitration) that resolve complex commercial disputes expeditiously. Such a characteristic improves the enforcement of contracts and the rule-of-law.

The government accepts as binding, the international arbitration of investment disputes between foreign investors and the state. Any agreement with international investors/parties includes a clause stating where arbitration will take place and which laws will apply.

B.12 Contract Enforcement

Efficiency in commercial contract enforcement is essential for keeping the wheels of commerce moving by enabling reasonably fast debt recovery, thereby allowing both banks and producers of goods to have confidence that they can recover their outlays should their customers fail to pay their debts.

Swaziland ranks midway in the list of SADC countries in terms of providing protection to borrowers and lenders. The Government accordingly intends to improve the process for obtaining credit by improving the availability of credit information and increasing protection of the legal rights of both borrowers and lenders.

A body of law must therefore be in place to support the concept of the uses of collateral, and this must be reinforced by a knowledgeable judiciary, access to a Commercial Court, and the ability to enforce judgments quickly, while, at the same time protecting the rights of the borrower. Enforcing contracts will in the future be treated under a proposed Commercial Court system that is now actively under consideration.

B.13 Bankruptcy

Business growth requires that capital be available for expansion. Depending on the situation, such capital can come in the form of retained earnings, shareholders funds, or from bank loans. Obtaining a loan from a financial institution requires that collateral be available to provide redress to the lender should the business become unviable and the entrepreneur unable to repay the loan, with bankruptcy being the ultimate expression of such inability to repay.

Swaziland's bankruptcy law, the Insolvency Act of 1955, has jurisdiction over the property of a person who has ordinarily resided in or carried on business for 12 months in Swaziland before the lodging of a winding-up petition, while the Companies Bill of 2008 aims to improve procedures for the dissolution of companies.

C. Macroeconomic Stability

Swaziland’s macroeconomic policy will continue to support economic growth, low inflation and low interest rates, all of which are viewed as necessary to enable higher levels of investment; to generate increases in employment; to produce higher incomes for all; and to raise the level of national wellbeing for everybody’s benefit.

Macroeconomic stability promotes minimized vulnerability to external shocks, and this in turn increases the prospects for sustained growth. Swaziland places a strong emphasis on macroeconomic stability, but its heavy reliance on forces beyond its control renders it difficult to maintain stability in the variables usually used to measure economic stability.

- **Low and stable inflation** indicates healthy demand in the marketplace while high or unstable inflation threatens growth. High inflation changes the value of long term contracts. Volatile inflation creates uncertainty in the market place, thereby increasing risk premiums. Since many tax rates are adjusted by average inflation, volatile inflation can severely alter government revenues and individual liabilities. The main drivers of inflation in Swaziland are fuel and food prices over which the government has little control because of their high import content. Inflation in 2007 stood at 4.9% and reached 12.6% in 2008 before declining to 7.5% in 2009. As a member of the Common Monetary Area, monetary developments reflect monetary policy pursued and implemented by the Reserve bank of South Africa. Curtailing inflation is a major challenge for monetary policy, which can vary from tight to steady to accommodative to achieve the Common Monetary Area (CMA) objective of capping inflation at 3-6%.

- **Low long-term interest rates** reflect stable future inflation expectations. While current interest rates may be acceptably low, high long-term rates imply higher inflation to come. Keeping these rates low implies that the economy is stable and is likely to remain so. The government aims to restrict long-term rates within the 9% range.

- **Low national debt relative to GDP** indicates that the government will have the flexibility to use its tax revenue to address domestic needs instead of paying foreign creditors. Additionally, a low national debt permits lenient fiscal policy in times of crisis. The government's objective is to cap debt at 5% of GDP.

- **Low deficits** prevent growth in the national debt. The projected deficit for 2009/2010 is E1.986 billion or 8% of GDP as against a 1% deficit in 2008/2009. The large deficit is mainly due to a decline in SACU revenues as a result of reductions in tariffs in line with World Trade Organization (WTO) requirements. The government's objective is to cap the deficit at 3% of GDP.

- **Currency stability** allows importers and exporters to develop long-term growth strategies and also reduces investors' needs to manage exchange-rate risk. The exchange rate of the Lilangeni is pegged at 1:1 with the South African rand, and this is expected to fluctuate from E8 to E8.5 to the U.S. dollar during 2009-2010. The volatility of the exchange rate of the rand continues to pose the main upside risk to the inflation outlook.

D. Improving Swaziland's Competitiveness

The Government acknowledges that a country's national and international competitiveness – how well it compares in its ability to support excellence in the production of goods and services – is influenced by an extensive array of factors. These include the state of the macroeconomic environment, the sophistication and innovative capabilities of its companies, the efficiency of factor markets, the degree of collaboration between the business and educational establishments, the excellence of the infrastructure, and the size of its markets, both domestic and foreign, to name but some.

D.1 Creation of a National Competitiveness Council

The government views the goal of improving Swaziland's international competitiveness by improving the investment climate as well worth achieving, and is committed to improving the enabling environment for all investors by undertaking a range of initiatives that will result in a continually-increasing level of efficiency for investors to enable them to compete more effectively at home and on international markets. In order to formally begin this process, it is important to develop a structure that would act in an advisory capacity to government on areas where Swaziland falls behind in competitiveness.

The government therefore intends to set up a high-level private-sector driven National Competitiveness Council[1] under the Ministry of Commerce, Industry and Trade (MCIT). The task of the National Competitiveness Council will be to recommend practical ways the government can make Swaziland the most competitive place to do business in Southern Africa. The MCIT will invite business leaders, economists, lawyers, policymakers and others as members with the brief of identifying, developing and championing reforms which will enhance Swaziland's competitiveness and generate further investment by building on the country's competitive edge.

This is not a simple task - there are many tough issues to tackle, and this will require working closely with government departments to improve the way they interact with businesses to address specific goals such as innovation, education and training, investment in infrastructure, the avoidance of environmental degradation, and sustainable development.

D.2 Improving the Investment Climate

Investors consider a distortion free economic and business environment as necessary, so a strong positive investment climate is a key factor in attracting investment. The government is aware that the environment for investors needs improvement and efforts have been made in recent years to address issues that inhibit investors from perceiving Swaziland as a good investor location. In some cases administrative barriers have been lowered, the legislative framework has been strengthened to reduce corruption, while the labour law has also been strengthened.

International experience shows that no single organization by itself will provoke significant change without clear political commitment combined with a clear prioritization of activities required. This will require constructive dialogue between, on the one hand politicians and line ministries and on the other

[1] In 2009, the then Ministry of Enterprise and Employment (now the Ministry of Commerce, Industry and Trade) established a Competition Commission in Swaziland, the remit of which is to monitor price fixing and collusion among companies and advocating for fair trade. This should not be confused with the proposed National Competitiveness Council.

investors, both international and local. The Cabinet Subcommittee on Investment in association with SIPA will take the lead in organizing ongoing *fora* for identifying and addressing these issues.

The more transparent and market-oriented the business environment becomes, the more competitive the country will become, and the easier it will be to promote Swaziland to investors. To drive change an ongoing focus and strategy is required with clear responsibilities and timeframes.

D.3 Streamlining Procedures and Eliminating Administrative Bottlenecks

The ease or difficulty of doing business in a particular country is an important indicator of a country's ability to attract investors. The government recognizes that administrative bottlenecks undermine a country's competitiveness because they contribute to the "transaction costs" of conducting business. They also can increase economic, political, and regulatory risk, thereby raising the cost of capital and ultimately deterring investment and economic diversification. They can create unpredictability and frustrate firm planning. They also contribute to the comparative disadvantage of countries while they compete globally for investments.

The World Bank's Doing Business series investigates the regulations that support business activity and those that restrict it, and compares these across 181 countries. Those countries emerging at the top of the list are considered to use best practices in the area under consideration. Swaziland's performance has declined in recent years, but nevertheless ranks high in certain areas, notably in dealing with licenses; employing workers; obtaining credit; paying taxes; and closing a business. In order to further improve Swaziland's competitiveness, the government is committed to making improvements in those areas identified as not competitive with other countries.

Efforts are now underway within the government to identify areas where the reduction in red tape can improve competitiveness and implement the recommendations from the Investor Roadmap which identified barriers to investment in a wide number of areas in regard to locating a business, employment issues, company reporting systems, and operating a business in Swaziland.

In implementing the recommendations for reducing red tape and improving performance, the government needs industry groups, businesses and individuals to indicate what frustrates them about government rules and regulations on a day-to-day basis, where there are overlaps, repetition, or inconsistencies, and how technology can be used to simplify business relationships with government. Unnecessary or burdensome compliance rules, no matter how small, need to be indicated, as well as practical suggestions made for change or improvements that would help make business more productive.

All Swazi government departments and agencies will be expected to make serious improvements. Individual government employees will be requested to have their say because many of the best ideas come from within government departments.

D.4 Increasing Transparency and Reducing Corruption

The government recognizes that corruption can deter investors, especially those from developed Organization for Economic Development (OECD) countries, where such practices are less common. However, corruption is not considered a significant obstacle to FDI in Swaziland, and the Government guarantees that the fight against corruption and the establishment of full transparency in all business dealings will be backed up by prosecution to the fullest extent of the law. Giving or receiving a bribe is illegal in Swaziland. Swaziland is a signatory to the UN Anti-Corruption Convention, the African Union Convention on Preventing and Combating Corruption and Related Offences, and the SADC Protocol against Corruption.

The Corruption Perceptions Index (as measured by Transparency International) ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. The government is pleased to note that significant improvements have been observed for Swaziland in the latest index.

According to the World Bank's enterprise surveys, the percentage of companies that identify corruption as a major constraint in Swaziland compares favorably against other countries in the region, as well as in all countries surveyed. The percentage of firms who expect to give gifts to public officials to get an operating license in Swaziland is low and a far better performance than in neighboring countries or in all countries in the survey.

However, Swaziland performs relatively poorly in certain areas. For example, the percentage of companies in Swaziland who expect to provide informal payments to public officials to get things done is less good than all countries in the survey although somewhat better than in other countries in the region while fraud and corruption have been identified as factors behind unsatisfactory service delivery and public sector waste, especially in tendering and procurement. The government Procurement Bill of 2008 seeks to reform those procedures. A new National Tender Board is chaired by the Principal Secretary in the Ministry of Finance and has the Accountant General as one of its members. The 2008/09 budget provided SZL 6 million for these reforms and is complemented by the development of a framework for Public Private Partnerships (PPPs) to boost private sector participation in public service delivery.

Swaziland's increasingly good performance in improving transparency and fighting corruption is due to other actions taken by the government in the form of an Anti-Corruption Law and an Anti-Corruption Unit, and the results of the foregoing surveys clearly indicate that these are attended by some measure of success. Nevertheless, corruption remains a problem that must be further rooted out in order to increase Swaziland's competitiveness and friendliness towards all forms of investment.

E. Investment Promotion

The Government considers that investment promotion is an investment in Swaziland's future. There is a circular relationship to the funding for investment promotion. The SIPA derives its funds from government revenues, which in turn, are derived from sales tax, corporate and personal taxes, customs duties via SACU, excise taxes etc. SIPA-inspired increases in FDI and the resultant increases in output and exports lead to more investment and more jobs. These in turn lead to higher Government revenues in terms of taxation – more customs revenue, more tax revenue, etc. These higher revenues may then be used to further expand funding for the agency, as well as paying back the government for its investment in FDI promotion. One of the major concerns in Swaziland has been the drastic slowdown in net FDI from SZL 823.7 million in 2006 to SZL 101 million in 2007. The inflows recorded in 2007 were mainly channeled to the investment, finance and service sectors. FDI is expected to decline through 2010, as liquidity constraints in the global economy persist.

E.1 Swaziland Investment Promotion Authority

To demonstrate its commitment to investment promotion, the government is committed to maintaining SIPA's budget at a level where it can be effective in terms of an increased number of staff, a more effective investment promotion programme, and a greater level of servicing for investors both at the pre-investment and the post-investment stages. Operating effectively in these areas means having the staff and financial resources to create effective investment promotion programs over time – programs that can reasonably be expected to benefit exporters and lead to new FDI. In the absence of adequate financial support, SIPA's mandate will not be easily achievable, especially in these challenging economic times.

To ensure that it is on the right track in its promotional efforts SIPA has developed its own three-year Strategic Plan, which will indicate its investment objectives on a year-by-year basis, with the plan rolled over each year. In particular, the government sees the need for a new focus on attracting quality companies at a high level who will be good corporate citizens, regardless of what sector they are in, a focus on working closely with investors in identified sectors, a strong linkages programme, and an overall focus on service to the SIPA customer through its one-stop shop.

In particular, the types of investors that need to be aimed for are those that are prepared to invest in Swaziland for the long-term. These are often to be found in South Africa where wages are higher than in Swaziland and corporate profits are also higher.

In promoting investment SIPA will also provide greater coordination with the bodies responsible for Agriculture (agro-processing), Tourism (tourism development), and the Federation of Swaziland Employers and the Chambers of Commerce (FSE&CC) and all other stakeholders in order to provide synergy to the investment promotion effort in these fields.

E.2 Priority Areas for Investment

The Swazi economy is mainly driven by agricultural activities on Swazi Nation land, by manufacturing which is predominantly agro-based, by the financial services sector, and by the government, which is the largest employer of white-collar workers.

In addition to key target markets, the government places a priority on key sector development with a strong focus infrastructure and the development of exports of value-added products, as an engine for economic growth in the short-to medium-term. The government therefore intends to develop Strategic Industrial Development Plans for key sectors, with a five-to-ten year implementation horizon. The following are the main targeted sectors identified by SIPA, with agriculture and industry, particularly light manufacturing, being the key areas, and South Africa being the key target market.

- ***Agriculture***

Land is one of Swaziland's most precious resources, and how the land gets utilized and what it produces is highly important for Swazis, because so many of them live in rural areas. The sector also plays an important role in providing raw materials for the largely agro-based manufacturing industries.

The Comprehensive Agriculture Sector Policy of May 2005 and the National Programme for Food Security guides development within the agriculture sector, and it has the objective of creating an enabling environment for increasing agricultural output. Both see opportunities in the area of adding value to crops such as sugarcane and cotton while beef production and dairying, and processing activities thereof are prime targets for increasing the food supply and satisfying local demand for dairy products and beef.

Agro-processing opportunities therefore need to be concentrated on, and particularly investment in value added food manufacturing to substitute for imports as well as for export markets will be a principal sectoral target for FDI. SIPA will therefore coordinate more with the Ministry of Agriculture to build up the marketing case for investment in Swazi agro-processing opportunities.

- ***Manufacturing***

Manufacturing, with its backward linkages to agriculture employs the greatest percentage of the workforce. Key manufactured products are sugar which is a key driver of the economy, soft drink concentrates, clothing and textiles, and pulp and wood, with soft drink concentrates growing at a rate that may overtake the sugar sector, the output of which is suffering from a 36% decline in prices in the EU, a key market.

The clothing and textiles industry survived the expiration of the Multi Fibre Agreement in 2005. Swaziland's recent currency depreciation has helped to boost exports, but the manufacturing sector is hampered by low competitiveness, deterioration in the market environment for the country's exports, obstacles to developing a skilled workforce, and high costs of domestic borrowing. All of these have held back investment in production facilities.

The government sees abundant opportunities in light industry and SIPA will therefore concentrate heavily on promotion of manufacturing opportunities in Swaziland in areas such as packaging, tools, clothing and footwear, wood products, and construction materials. Other areas in light manufacturing that would benefit from a targeted strategy include assembly-type operations because of Swaziland's abundant supply of labour. Industry, however, is a very broad category that needs to be researched to determine where Swaziland can offer a competitive and comparative advantage, especially in areas such as labour costs and labour productivity, an advanced level of infrastructure, and the government's supportive attitude towards investment.

- ***Information Technology***

Swaziland has a strong commitment to Information and Communications Technology (ICT), as is demonstrated in the government's ICT policy that was introduced in 2006. The policy aims to provide universal access to Swazis and enable ICT to contribute to employment creation, trade, tourism, health, education and culture. The new ICT policy emphasises the importance of low-cost access to information infrastructure, which is the prerequisite for ICT access by the poor. It also underscores the important role that ICT can play in changing the structure of an industry and altering the rules of competition, creating new competitive instruments and creating new businesses from existing activities. The Ministry of Telecommunication is responsible for the implementation of the ICT policy.

The government is committed to an ICT policy that will deploy universal, equitable and reliable infrastructure at low cost, increase broadband and other innovative services, adapt ICT equipment to meet the needs of disabled persons, promote responsible information that is transmitted through the Internet, promote a competitive environment, and attract private sector investment to ICT. One of the key elements of its telecommunication policy is to establish an independent regulator for the industry that can assist in accessing technology, controlling prices and levelling the playing field between the fixed and mobile operators. The ICT sector needs to increase competition, which could entail private participation in the fixed-line sub-sector and an increase in the number of mobile operators.

- ***Mining***

Swaziland is fortunate to have economically meaningful supplies of minerals that can be mined profitably. These include coal, diamonds, gold, kaolin, silica and barite. Attempts at exploitation of these minerals depend on good infrastructure, of which Swaziland is well-endowed.

- ***Financial Services***

The financial services and banking sector grew significantly in recent years. The number of non-bank financial institutions (NBFIs) rose significantly in the two-year period after the liquidity surge prompted by the implementation of the Retirement Funds Act of 2005. While one of the targets for the legislation was to generate sufficient liquidity for capital formation through the Swaziland Stock Exchange, the exchange, however, remains largely inactive with small market capitalization. The liberalization of the insurance industry through the Insurance Act of 2005 was another factor in the growth in non-bank financial institutions. The legislation has led to impressive growth in foreign direct investment in the sector especially from South Africa. Two new institutions, the Registrar of Insurance and Retirement Funds and the Insurance and Retirement Funds Board, were established in 2008 to regulate the industry.

- ***Other Services***

Swaziland's services sector has grown in recent years and accounted for 44 per cent of GDP in 2007. The transportation, storage and communication sector has improved, mainly due to the recovery in the transport sector. However, the wholesale and retail trades, hotels and restaurants have faltered in the past two years, due to higher inflation. Other areas such as real estate, renting and business activities, and the health and education sub-sectors, remain strong.

- ***Tourism***

The Government of Swaziland has identified tourism as a sector that has a high potential to contribute to socio-economic development. Swaziland's natural beauty and rich culture and heritage offer the opportunity to diversify through tourism. The kingdom will also take advantage of the 2010 Soccer World Cup, to be hosted by South Africa, by positioning itself as a tourist destination for soccer fans before or after the tournament. While the Swaziland Tourism Authority has the responsibility for the development of tourism, the National Tourism Development Plan indicates that new investment in tourism infrastructure is needed. The government therefore intends to promote greater cooperation between SIPA with the Swaziland Tourism Authority in order to identify specific needs in this area.

- ***Utilities and Infrastructure***

Construction activity in 2008-10 will be boosted by the building of a new dam, as well as by road and energy projects and a new airport. Swaziland welcomes participation in infrastructure projects that will improve the quality and extent of the country's energy, telecommunications, water, road, rail and airport infrastructure, especially when these can be carried out under public/private partnership agreements. Investments in development zones such as industrial estates, technical parks, and science parks are particularly of importance to Swaziland's future economic wellbeing.

E.3 Effective SME Development

Small and medium-scale enterprises are of great importance in every country because they provide most of the new jobs created, and many grow to become big businesses in their own right. SMEs are of great importance to Swaziland, with their importance being espoused in the government's National Policy on the Development of Small and Medium Scale Enterprises. Microenterprises are those with less than E50,000 in assets, employ 1-3 persons, and a turnover of less than E60,000. Small enterprises are defined as those with assets of E50,000 to E500,000, have 4 – 10 people employed and have sales of up to E600,000. Medium enterprises are those with assets valued at E500,000 to E3 million, up to 50 employees, and sales of up to E3 million. Large enterprises are those with assets of more than E3 million, more than 50 persons employed, and a turnover in excess of E3 million. Where the definition is in conflict, the number of employees is used as the governing criteria, e.g. a business with a turnover of E600, 000 but employing seven people is defined as a small rather than a medium-scale business.

In recognition of the importance of SMEs in job creation, the government has instituted policies to increase both the number of new enterprises and the growth of existing businesses. As part of this policy, the Ministry of Industry, Commerce and Trade plans to create an SME database. Also, the Draft Government Procurement Bill of 2008 includes measures to make it easier for Swazi companies to take part in public procurement. This should provide the potential for SME growth through the provision of goods and services to the government and increase the meaningful participation of local businesses in government- or donor-funded capital projects. In further support of SME development, the government will review its SME Policy, with an eye to incorporating micro enterprise development issues. The main activities expected to drive the initiative include the restructuring of the loan guarantee schemes to be more accessible to entrepreneurs.

Several institutions are responsible for providing assistance to SMEs. At the policy level, the SME Unit in the Ministry of Commerce, Industry and Trade is responsible for researching and proposing changes to existing policy or developing new policy related to SMEs in such areas as finance, training, etc. The Small Enterprise Development Company (SEDCO) provides business development services such as training on business management, registration of start-ups, etc. SEDCO operates eight small industry estates around the country and rents workshops in these to small business owners. The SME Development Unit in SIPA, which is being re-engineered into the Domestic Investments Department, provides extensive support to SMEs as well as operating a linkages programme to help establish business relationship between SMEs and larger companies.

Support for SMEs thus derives from at least three different organizations, all of which, to one extent or another are interlinked. Collaboration, complementarity and coordination between these bodies is critical to providing the best services to their clients. This is acknowledged by all three organizations.

F Access to Markets

The Government recognizes that access to markets is a primary driver for new investment; with a relatively small market, access to larger markets is essential for promoting investment. Regional groupings and preferential trading arrangements between prospective recipients can induce increased inflows of FDI as well as improving the likelihood of profits being reinvested to avail of large markets. In terms of investment policy, it behooves Swaziland to maintain close relations with neighboring South Africa, with whom most of its trade is carried out, where a substantial amount of its investment comes from, and where much of its investment will come from, based on the strong prospects for success in targeting South African companies as potential investors in Swaziland.

F.1 Membership in Trade Blocs

Swaziland is a member of the SACU, which was established in 1910, and is one of the oldest Customs Unions in the world. SACU, with a market of about 60 million allows for the free movement of goods among member states which include Botswana, Lesotho, Namibia, South Africa and Swaziland. Within SACU, South Africa remains Swaziland's largest trading partner, accounting for 90% of Swazi imports and 66% of Swazi exports. SACU has recently concluded a Free Trade Agreement with the European Free Trade Association (EFTA), which comprises Iceland, Norway, Switzerland and Liechtenstein. EFTA has agreed to grant SACU duty-free and quota-free market access on all industrial products. SACU has also concluded a Preferential Trade Agreement (PTA) with MERCUSOR (comprising Argentina, Brazil, Paraguay and Uruguay) and this agreement will be implemented by January 1, 2010. In addition, a Trade, Investment and Development Agreement between SACU and the U.S. was signed in 2008. SACU is also currently negotiating a Free Trade Agreement (FTA) with India.

Swaziland is also a member of the SADC which has a membership of fifteen States. SADC has a total population of 270 million and a combined potential market income of US$430 billion. Following the launch of the SADC Free Trade Area (FTA) in August 2008, SADC Member States are fully implementing an agreed schedule of the reduction and elimination of tariffs and non-tariff barriers (NTBs) on all trade among them. The unique position of Swaziland of already belonging to another Customs Union (in this case SACU) is recognized in the treaty establishing the COMESA. In this regard, Swaziland has been trading with COMESA, which has a membership of 19 countries and a population of about 400 million, under a renewable derogation, which allows her to be a non-reciprocal member of this Regional Economic Community (REC).

Swaziland as part of the SADC Economic Partnership Agreement (EPA) configuration, has signed a Free Trade Agreement with the EU, which allows all goods except for arms and ammunition to enter into the EU market duty-free and quota-free. In addition, a wide range of export products from Swaziland enjoy preferential non-reciprocal market access through the Generalized System of Preferences (GSP). Developed countries that grant the GSP Scheme include some members of the EU, USA, Japan, Canada, Russia, Australia and New Zealand.

Swaziland is also among the countries that benefit from AGOA, a trade scheme by the U.S. that allows eligible sub-Saharan African countries to export their products (mainly textiles, clothing and apparel) into the American market duty-free. Swaziland also qualifies for the third country fabric provision of the AGOA, which allows her to source raw materials elsewhere, other than in the U.S. or in Sub-Saharan countries for exportation to the United States. SACU and the U.S. also signed a Trade, Investment and Development Cooperation Agreement (TIDCA) in 2008 and this agreement could be elevated into an FTA in the future. The U.S. is Swaziland's second-largest market for exports, mainly textiles and clothing.

Swaziland is also a founder member of the WTO, the Geneva-based multilateral and rule-based organization that governs world trade. Swaziland's commitment to the WTO has been demonstrated by a decision of Government to open a fully-fledged Embassy in Geneva in 2005.

F.2. External Trade and Trade Promotion

Swaziland has an open economy which is free market and export oriented. The exports to GDP ratio was 60% in 2008, while the imports to GDP ratio was 68%. The country is heavily influenced by both regional and international developments. The level of monetary and trade integration with South Africa has meant that prices, economic performance and investment are significantly impacted by developments in South Africa.

The Trade Promotion Unit (TPU), a unit of the Directorate of Trade in the Ministry of Foreign Affairs and Trade performs services such as processing all export documents of goods from Swaziland to other regions and countries (certificates of origin). It also processes rebate certificates for customs duty exemption for products imported into Swaziland by companies, Non-Governmental Organizations (NGOs) and charity organizations.

It manages the Swaziland International Trade Fair (SITF), which is an annual business event that is held between August and September at the premises of the Mavuso Trade and Exhibition Centre, in Manzini. The Unit also facilitates the participation of Swaziland exporters to the following regional and international trade fairs, namely, Export-Import Show and Rand Easter Show (South Africa); FACIM (Mozambique), SIAL Food Fair (France) and Ambiente Gift Fair (Germany).

Determined to improve its trade competitiveness, Swaziland has set up a Trade Facilitation Committee to remove domestic bottlenecks to trade. In further support of better access to markets, the government intends to improve procedures for trading across borders because countries with efficient customs procedures, limited documentation requirements and good transportation systems tend to be more competitive. In terms of documentation, Swaziland compares somewhat poorly with its SADC neighbors for both importing and exporting. The implementation of the Automated System for Customs Data (ASYCUDA) is expected to improve the customs clearance process, as well as improving revenue collection.

F.3 Export Credit Guarantees

The Swaziland government through the Central Bank of Swaziland operates an Export Credit Guarantee Scheme (ECGS), which is aimed at promotion of the country's export trade. The policy objective of the scheme is to facilitate Swaziland exporters to obtain loans from commercial banks at concessionary rates of interest without the need for undue collateral. Exporters without collateral can benefit from the scheme through their integrity and ability to fulfill contractual obligations. The maximum amount securable is up to E3.3 million.

The scheme gives Swaziland-based exporters a competitive edge so that they can penetrate and participate in international markets with greater confidence knowing they have the full backing of the scheme to meet their working capital requirements. The scheme facilitates exporters' applications for loans by providing commercial banks with guarantee bonds as risk cover even for those exporters whose collateral security would otherwise have been deemed inadequate for obtaining financial assistance. The scheme facilitates the promotion of small and medium size exporters operating in Swaziland in executing export orders with greater ease by enabling exporters to obtain finance from commercial banks at concessionary interest rates The extent of financing under the scheme is as follows:

- Pre-shipment credit should not exceed 70% of the FOB value of goods to be exported or 70% of production whichever is lower;
- The guarantee bond under pre-shipment covers 75% of the loan afforded to exporters;
- At the post-shipment stage, the loan covers 85% of the value of export bills or shipping invoices outstanding at any time; and
- Banks are free to issue credit to applying exporters of up to E50,000 without applying for a credit guarantee from the ECGS.

G. Access to Finance

Government policy is to support the free flow of financial resources. Swaziland’s financial market is closely tied to that of South Africa and operates under conditions generally similar to the conditions pertaining in that market. Commercial banks offer credit on market terms, but the rules of the CMA forbid non-Swazis from raising domestic loan capital, although they can apply to the Central Bank for exceptions to this rule. Efficient capital markets in Swaziland are in their infancy, and at present, there is no effective regulatory system established to encourage portfolio investment. There is a small stock exchange with a small number of companies currently trading two types of instruments, equities and bonds. The Central Bank of Swaziland monitors the flow of foreign investment into and out of the country and it has formal powers to screen and regulate foreign exchange, and with it investment, but these powers are exercised in a formal, routine, and equitable manner.

G.1 Exchange Rates

The Swazi lilangeni has maintained parity with the South African rand since 1969. Despite the volatility of the rand, the government considers that this arrangement has served the country well, since most industries in Swaziland produce for the South African market and source much of their raw materials there. Swaziland is part of the Common Monetary Area all of which uses the rand, and which, in addition to South Africa, includes Lesotho and Namibia**.** The fixed rate of the lilangeni to the South African rand under the Common Monetary Area is underpinned by close economic integration with South Africa.

The government realizes that the lilangeni’s ties to the rand can have both positive and negative effects. On the positive side, there is certainty about the value of the lilangeni, and this is a very strong point in view of Swaziland’s economic ties to South Africa. On the other hand, Swaziland cannot control the value of the rand, and this can have serious repercussions for Swazi industry when the value of the rand depreciates or appreciates. Thus when the rand depreciates, exporters are helped, and when it appreciates, exports are negatively affected.

The lilangeni/rand relationship is generally viewed overall as having been positive for Swaziland. Since the South African economy will continue to play a large role, not only in Swaziland, but in the region, there is no apparent good reason to abandon the relationship. The portents from the foregoing are that the focus on attracting investment into Swaziland should remain firmly fixed on South Africa, or, more particularly on those companies who are focused on exporting into the CMA.

The process for obtaining foreign currency is straightforward. A resident requiring currency other than emalangeni (E) or rand for permissible purposes must apply through an authorized dealer, and a resident who acquires foreign currency must sell it to an authorized dealer for local currency within 90 days. No person is permitted to hold or deal in foreign currency other than an authorized dealer. Authorized dealers in Swaziland are First National Bank of Swaziland (FNB), Nedbank, Standard Bank, and Swazi Bank. All commercial banks have branch networks around the country offering both personal and corporate banking services.

Long term mortgage finance is provided by the Swaziland Building Society to both individual and commercial clients. Other financial institutions include the Swaziland Royal Insurance Corporation, which offers both long and short term insurance cover, and the Swaziland National Provident Fund, which was established as a savings scheme to provide benefits for employed persons on retirement. It has since been converted into a pension scheme.

G.2 Exchange Controls

The CMA includes South Africa, Swaziland, Lesotho and Namibia. The CMA provides for the free flow of funds between its members with no exchange controls. The CMA countries apply virtually identical exchange control regulations *vis-à-vis* third parties.

Exchange controls are still in place in Swaziland, but there are ample foreign reserves available, and the system is generous for companies who want to import raw materials or equipment for productive purposes. Limitations for repatriation of salaries and dividends are also generous. None of the exchange control restrictions or prohibitions can be considered a hindrance to investment. The private sector generally expresses satisfaction with the exchange control regime and with the efficiency of the commercial banks in dealing with foreign exchange requirements.

There is a commitment to gradually liberalizing the exchange control currently in place in the CMA. Swaziland has endeavoured to follow the South African exchange control relaxation programme in line with CMA arrangements. In this regard residents can, since December 1997 hold foreign currency deposits with local banks to the value of E100,000.

The Central Bank's prior approval is necessary for all capital transfers into Swaziland from outside the CMA but no restrictions are placed on such transfers. In practice, approval is routinely granted when required for genuine investment activity.

Outward transfers of capital require Central Bank approval. Inward transfers should be registered with the Central Bank, to facilitate possible future repatriation of capital. Companies that are more than 25 percent owned or controlled outside the CMA require Central Bank approval before taking up loans locally.

H. Investment Incentives

H.1 Objectives in Granting Incentives

The incentive scheme operated by the government has the following objectives:

- Stimulation and support for growth in GDP;

- Creating jobs for Swazi workers; and thereby promoting and supporting the economic and social wellbeing of the Swazi population, in particular that of women and children;
- Increasing the country's industrial capacity;
- Contributing to added value in new and existing enterprises;
- Increasing exports and substituting domestic production for imports, especially for agriculture-related products;
- Increasing foreign exchange holdings and improving the balance-of-payments;
- Development of areas within the national territory that are considered disadvantaged;
- Enabling growth in SMEs by increasing linkages with larger companies;
- Increasing the skills levels of Swazi workers;
- Obtaining new technology;
- Increasing industrial efficiency; and
- Rehabilitating, expanding or modernizing the country's infrastructure to support economic expansion.

H.2 Tax Incentives

The government considers the tax regime in Swaziland to be reasonable, equitable, competitive with other tax regimes in the region, and an important investment incentive. All companies are liable for corporate tax, which is presently set at 30%, a rate that is generally comparable with corporate tax rates in the region. Furthermore, investors are not required to pay capital gains tax. Most of the countries in the region have changed over to Value Added Tax (VAT), which ranges from 10% to 17%, while Swaziland's sales tax stands at 14%, although plans are in place to change to a VAT system in the future.

Swaziland's tax incentives are as follows:

- **Development Approval Order**

  In furtherance of the Income Tax Order of 1975, the Minister for Finance is empowered, under General Notice No. 56 of 2000, to issue development approval status to a nominated business whereby such business may benefit from a concessionary corporate tax rate of 10% for a period of 10 years. A company eligible for this concession may also be provided with an exemption from withholding tax on dividends during the same 10-year tax period.

  The grant of a development approval order is only applicable to approved new investments, business or development enterprises in manufacturing, mining, international services and tourism, and the grant is available to both local and foreign investors, provided that they are a company incorporated in Swaziland, and provided that their activities do not unfairly compete with existing Swazi companies.

- **Provision for Losses**

  Losses may be carried forward indefinitely.

- **Accelerated Capital Allowances**

  There is an initial depreciation allowance of 50% of the cost of an industrial building, and 40% thereafter. This provision also applies to hotel buildings, and to company financed housing for employees.

- **Wear and tear on industrial machinery**

  A 50% deduction is allowed in the first year, followed by annual depreciation at an agreed rate until the cost is written off.

- **Imports of capital goods** for productive investments are duty free.

- **Imports of raw materials** are duty free provided the final product is exported outside the Southern Africa Customs Union.

- **Repatriation of Income**

  Both personal and company income may be repatriated in any currency without permission and without limitation after payment of income taxes.

- **Training of employees** qualifies for 100% of the cost to be offset against tax liabilities.

H.3 Double Taxation Agreements

The Government seeks to conclude international agreements with as many countries as possible for the purpose of avoiding double taxation.

Income such as trading profits or income for services that arises from a Swaziland source is taxed in Swaziland. As Swaziland only levies tax on Swazi-generated income, the question of foreign tax relief does not usually arise in Swaziland. No unilateral relief in cases of double taxation is provided under Swazi tax law. The only possible relief for taxes paid abroad on income also subject to Swazi tax is under a double taxation agreement. However, proof of payment of taxes in Swaziland may be provided to foreign investors as proof that taxes have been paid on income generated in Swaziland.

Swaziland's policy is to enter into double taxation agreements with countries with whom it has trading relationships, and has concluded a number of such double taxation agreements. The most significant are with South Africa and the UK and concern dividends, interest, royalties and fees. Swaziland also has double taxation agreements with Mauritius and the Republic of China on Taiwan.

I. Access to Land

I.1 Access to Land for New Investments

Access to land is of primary importance to investors. Non-citizens of Swaziland or a company composed of a majority of non-citizens may not own land in Swaziland, in accordance with the Constitution. However, the Constitution also allows that this may not be used to undermine or frustrate an existing or new legitimate business undertaking of which land is a significant factor or base. An investor may acquire land in Swaziland from the government or from the private property market.

To streamline the process of obtaining land, the government has completed an analysis of land acquisition and development issues and intends to implement a number of the recommendations, including the unification of land administration under a single ministry and an end to the existing gender bias in land ownership. It will also undertake to develop full information for investors on how to obtain land in Swaziland for various purposes, as well as developing a database that details land available for lease or purchase.

Investors with industrial projects often lease government Title Deed Land, or more typically factory shells, directly from SIPA which leases existing factory shells or constructs new ones for investors in the country's existing industrial estates and industrial sites.

Investors can purchase or lease privately owned land and factory shells in all estates and sites via real estate agents or the Swaziland Industrial Development Corporation (SIDC). SIDC is a development finance company, partly owned by the government that leases and sells land and factory shells to investors. Use of land is therefore provided to investors either through purchase or long-term lease of up to 99 years. This right may include the right of ownership of real and personal property situated on the land.

I.2 Developing Industrial Estates through PPPs

Swaziland has an industrial estate master plan - the National Industrial Estate Strategy and Master Plan - through which the Ministry of Commerce, Industry and Trade administers the location of plants in industrial estates while SIPA provides factory shells.

Commercial industrial land is available in eight of the country's municipalities and four more are in the course of identifying industrial areas. Most of the country's existing industrial space is located close to urban areas, but the government has adopted a policy of decentralization of industrial activity from the main areas to smaller towns and rural areas to spread employment opportunities. Future anticipated industrial sites include Sdvokodvo, Mpaka, and Lavumisa.

The Ministry of Housing and Urban Development encourages municipalities to develop PPPs to promote economic development. It is customary in most countries for PPPs to be used in the planning, development, and management of industrial zones, the development of infrastructure, and the expansion of utilities. The principal PPP arrangements to achieve effective private-sector participation in such development projects are joint ventures, concessions, leases, management agreements, and build-operate-transfer (BOT), build-own-operate (BOO), and build-own-operate-transfer (BOOT) arrangements.

The government considers that the future for industrial estate development is for it to be realigned with best practices worldwide, which means that development of industrial areas in Swaziland in the future will gradually be transferred to the private sector with SIPA being responsible for organizing PPPs as the preferred method for engaging the private sector. SIPA will accordingly set up a specialized unit within its organization to achieve this objective.

In all cases, the move towards private sector participation in zone development is based on the objective of shifting risk from the public sector; mobilizing private capital for zone development thus freeing up public funds for other endeavors; and for the efficiency gains from private sector involvement.

J. Infrastructure

The government recognizes the importance of infrastructure for development, and an especially important component for FDI. It also notes that investors consider that the infrastructure in Swaziland is above average, and is committed to continue making available adequate infrastructure to support investment. For example, new road projects include the Ngwenya-Mbabane-Manzini corridor and the Manzini by-pass. The African Development Bank (ADB) has been a key player in these road projects.

The country enjoys well-developed road links with South Africa. It also has railroads running east to west and north to south. The older east-west link makes it possible to export bulk goods from Swaziland through the Port of Maputo in Mozambique which is mainly used for exports of sugar, citrus, and forest products, with future usage expected to increase. A north-south rail link, completed in 1986, provides a connection between the Eastern Transvaal rail network and the South African ports of Richard's Bay and Durban.

Swaziland also has an inland dry port which allows customs clearance to be carried out at the Matsapha Industrial Estate.

K. Utilities

The Swaziland Electricity Company provides power supplies to business users and households. Domestic supplies have been growing through the expansion of domestic production. Although supplies of electricity sometimes can be problematical at the distribution level, the number of power outages in a typical month are far less in Swaziland than in neighboring countries, and the value of sales lost as a result of these outages is consequently also far less. Swaziland is working to improve the electricity supply by erecting a new 300MW power plant that is expected to come into operation by 2013.

The Swaziland Water Services Corporation provides reliable and competitively-priced water supplies to businesses and residences.

Improvements in other forms of infrastructure are also taking place, particularly in telecommunications. Projects envisaged in this area include increasing broadband services, supporting data and Internet solutions, and moving the Swaziland Television Authority from analogue to digital broadcasting. The Swaziland Posts and Telecommunications Corporation has developed a telecommunications network that is one of the more advanced in Sub-Saharan Africa. Broadband is operational in Mbabane and Manzini while the mobile network now covers 80% of the country.

L. Environmental Compliance

The government considers that the protection of Swaziland’s environment is of paramount importance for both present and future generations, and therefore requires compliance with the country’s environmental code by all investors as part of all new investment agreements.

Environmental compliance including regular inspections is important for any country hosting investment, particularly in industrial projects. SEA is responsible for regulating and monitoring compliance in regard to the environment.

The country requires EIAs for all new projects that may have a significant impact on the environment. All investors are required to notify the Environmental Authority prior to commencing any new development to determine whether or not there is a need for an EIA.

M. Employment and Labour Practices

Swaziland adheres to the International Labour Organization (ILO) conventions protecting workers' rights. Labour/management relations are generally amicable, and strike action is infrequent. The Industrial Relations Act of 2000 created the Conciliation, Mediation and Arbitration Commission to resolve employer-employee disputes.

Swaziland ranks high as one of countries with the least rigid labour regulations, and has some of the lowest non-wage labour costs. It is easy to hire workers in Swaziland; however, the cost of laying off workers is lower in neighboring countries. This affects competitiveness, and can be a significant factor in the investment decision-making process, which the Government will address.

The government requires companies to employ Swazi nationals, unless they can not find a qualified national. All foreign nationals taking up employment in Swaziland require a work permit and these are generally given to expatriates offering specialized skills. A valid work permit must be obtained prior to taking up employment and this document, together with proof of employment, must be produced at the point of entry. Work permits are issued for a maximum of five years but will be renewed if necessary.

Applications for permission to take up residence and employment should be submitted at least two months prior to the commencement of a contract. Spouses and dependents of expatriate employees must make separate application before taking up employment.

Visitors to Swaziland generally do not require a visa to enter the country, provided their intended period of stay is not excessive.

N. Education and Investment

The evidence that the development of human capital can help to attract investment is compelling. The Government of Swaziland is committed to inclusive education for Swazi children, and education policy has the objective of providing high quality education to all children aged from 3-21 years old.

Investment policy may be considered to extend to educational policy to the extent that the skills needed in industry should correlate with the types of skills taught in vocational schools and universities. The prevailing opinion is that the country is not keeping up with the times in terms of skills development. Most degrees awarded lean towards the academic; there is no university with full-fledged degrees in technical fields. However, the Education Act and Education Policy are under review.

A number of other initiatives are in place or are planned to be in place soon that will go far toward matching of skills required with what is provided at both the vocational and university levels. In particular, the government has introduced the International General Certificate of Secondary Education (IGCSE) which encourages research by students, and has also introduced pre-vocational education which is aimed at encouraging entrepreneurial skills.

The government supports the concept that the development of appropriate skills has to be demand driven, rather than produced in the hope that they are the right kind of skills. Consequently, it will be a requirement for SIPA in its strategic planning for investment promotion to provide analyses of the types of industries likely to invest in Swaziland in the future, thereby enabling the government to engage in a dialog with the educational authorities in order to correlate the development of courses with the likely demand for graduates of such courses.

5. Investment Policy Implementation, Monitoring and Evaluation

- **Implementation**

The government is committed to implementing the concepts set out in this Investment Policy through strategies that will require the commitment of all stakeholders in the process, in government and in the private sector. An Implementation Action Plan is included as an annex to this Investment Policy.

- **Monitoring and Evaluation**

Implementation of the Investment Policy will be monitored and evaluated through a process to be set up by the Ministry of Commerce, Industry and Trade.

- **Conclusion**

To be successful in attracting investment, Swaziland must be competitive, and viewed as one of the most open, investor-friendly, and progressive business environments in the region. To this end, the government is committed to changing the mindset of all stakeholders to reflect what is needed to achieve this objective. This policy document thus focuses on what must be provided in Swaziland to attract greater levels of both foreign and domestically-generated investment to take advantage of Swaziland’s abundant opportunities.

The Investment Policy sets out a blueprint for investment promotion and streamlining of the services that underpin it. It is intended to generate confidence in the government’s support for existing investors, and to encourage future investors of the potential of the country based on free market economics, good governance, transparency, and consistent policies.

6. Investment Policy Summary and Action Plan for Implementation

Policy Component		Investment Policy	Issues	Stakeholders	Actions
A	Political Stability	Swaziland is a Monarchy with its own Constitution and an uniquely stable combination of western and traditional legal systems	Some controversies that the Government is committed to addressing in order to improve the image of the country and to improve investor confidence	Government of Swaziland	1) Government to continue to address any identified contentious issues
B	Legal and Regulatory Framework	Government espouses a supportive legal and regulatory framework for investors	Ensure that the legislation in force is sufficient to protect the interests of local and foreign investors	Government of Swaziland SIPA	1) Determine if Investment Promotion Act of 1995 needs amendments 2) Determine if a new Investment Law is necessary.
C	Macroeconomic Stability	Macroeconomic policy will continue to support economic growth, low inflation and low interest rates.	Declining growth; High but declining inflation; High interest rates	Economic Ministries Central Bank of Swaziland	1) Promote policies to support economic growth 2) Promote sound monetary policies 3) Manage the exchange rate
D	Improving Swaziland's competitiveness	The Government is committed to improving Swaziland's international competitiveness by improving the investment climate	Prioritization of activities to improve the investment climate Streamlining procedures and eliminating bottlenecks Increasing transparency and reducing corruption	Ministry of Commerce, Industry and Trade Private Sector	1) Develop TORs for Competitiveness Council 2) Creation of Competitiveness Council 3) Development of action plan
E	Investment Promotion	Government supports investment promotion as an investment in Swaziland's future	Support for SIPA Priority areas for investment Effective SME development	SIPA Ministry of Commerce, Industry and Trade	1) Develop and update SIPA 3-year Strategic Plan 2) Develop Strategic Industrial Plans for identified sub-sectors 3) 3) Update the SME Development Policy
F	Access to Markets	The Government recognizes that access to regional and extra-regional markets is a primary driver for trade and investment	Swaziland is not sufficiently attractive for FDI because of its small local market	Ministry of Commerce, Industry and Trade Ministry of Foreign Affairs and International	1) Continue to focus on identifying and removing barriers to trade and improve procedures for trading across borders 2) 2) Continue to develop Free Trade Agreements

Policy Component		Investment Policy	Issues	Stakeholders	Actions
				Cooperation	
G	Access to Finance	Government policy is to support the free flow of financial resources	Foreign companies may not borrow from local financial institutions Swaziland has no control over the volatility of the rand because of its membership in the CMA	Central Bank of Swaziland	1) Because of membership in the CMA, which is a very large market, Swaziland should first and foremost focus on investments from, and trade with CMA members
H	Investment Incentives	Government policy is to grant incentives to investors that will be comparable to incentives available in the region, and to conclude double taxation agreement with as many countries as possible	Incentives regime may not be competitive with neighboring countries Sales tax still in force when most countries in the region have changed to VAT	Ministry of Finance SIPA	1) SIPA to review incentives regime to determine where it can be made more competitive 2) Change over to VAT is planned
I	Access to Land	Access to land, through purchase or long-term lease is essential for investors.	Foreign citizens may not own land in Swaziland Difficulties in acquiring land for development All industrial estates are at full capacity	Ministry of Agriculture Ministry of Housing and Urban Development Municipalities SIPA	1) Implement the recommendations from the Government's analysis of land acquisition and development issues 2) Expand the number of municipalities with zoned industrial land from 8 to 13 3) SIPA to develop guidelines for how to obtain land in Swaziland for development 4) SIPA to develop a database of where land zoned for industrial use is available for lease or purchase 5) Development of new industrial estates at Sdvokodva, Mpaka, and Lavumisa. 6) SIPA to investigate setting up a PPP unit to promote investment in industrial estates
J	Infrastructure	The Government recognizes the importance of infra-structure for	Further improvements needed in road infrastructure	Ministry of Public Works and Transport Ministry of Housing	1) Continuous programme of improvement to roads and railways

Policy Component		Investment Policy	Issues	Stakeholders	Actions
		development, and as an especially important component for attracting FDI.		and Urban Development SIPA	
K	Utilities	The Government is committed to continuous improvements in electricity supply and telecommunications. Water supplies are adequate	Heavy reliance on imported electricity Telecommunications infra-structure needs improvement	Swaziland Electricity Company Swaziland Water Services Corporation Swaziland Posts and Telecommunications Corporation	1) Plans are underway for the completion of a 300MW power plant by 2013 2) Expansion of broadband services
L	Environmental Compliance	The Government requires compliance with the country's environmental code by all new investors	Dissemination of information can be improved	Swaziland Environment Authority, Ministry of Tourism and Environment	1) Greater dissemination of environmental requirements for industry.
M	Employment and Labour Practices	Swaziland adheres to ILO conventions protecting workers rights.	Cost of laying off workers is high in Swaziland Renewing work permits for foreigners can be difficult	Ministry of Labour and Social Security Ministry of Home Affairs SIPA	1) SIPA to correlate with the Ministry of Labour and Social Security to resolve issues relating to laying off workers, and renewing work permits.
N	Education and Investment	The Government is committed to expanded correlation of the skills taught in universities and technical colleges with those required by industry	Insufficient supply of science and management graduates.	Ministry of Education SIPA	Greater coordination needed between SIPA and the Ministry of Education