AFRICAN DEVELOPMENT BANK

KINGDOM OF SWAZILAND
COUNTRY GOVERNANCE PROFILE

OPERATIONS DEPARTMENT
ONCB
MAY 2005
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CURRENCY EQUIVALENTS
(AS AT 30 June 2005)

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ACRONYMS AND ABBREVIATIONS

AG Auditor General
AGOA African Growth and Opportunity Act
BLNS Botswana, Lesotho, Namibia, Swaziland
CANGO Coordinating Assembly of Non-Governmental Organisations
CDC Constitution Drafting Committee
CDO Community Development Officer
CEDAW Convention on the Elimination of All Forms of Discrimination Against Women
CEO Chief Executive Officer
CGP Country Governance Profile
COMESA Common Market for Eastern and Southern Africa
CMA Common Monetary Area
CRC Constitutional Review Committee
CSB Civil Service Board
CSO Civil Society Organisations
CTA Central Transport Authority
DPM Deputy Prime Minister
DPP Director of Public Prosecution
EU European Union
FDI Foreign Direct Investment
GAAP Generally Accepted Accounting Principles
GDP Gross Domestic Product
GSP Generalised System of Preferences
IAS International Accounting Standards
IMF International Monetary Fund
MEPD Ministry of Economic Planning and Development
MOF Ministry of Finance
MP Members of Parliament
MTEF Medium Term Expenditure Framework
MVA Motor Vehicle Authority
NAMBOARD National Agriculture Marketing Board
NDS National Development Strategy
NGO Non-Governmental Organisation
OECD Organisation for Economic Co-operation and Development
PAC Public Accounts Committee
PBC Planning and Budgeting Committee
PE Public Enterprises
PEU Public Enterprise Unit
PRSAP Poverty Reduction Strategy and Action Plan
PSMP Public Sector Management Programme
PSPF Public Service Pension Fund
RMC Regional Member Countries
ROSC Reports on Observance on Standards and Codes
SACU South African Customs Union
SADC  Southern African Development Community
SDSB  Swaziland Development and Savings Board
SEB  Swaziland Electricity Board
SEBENTA  Sebenta National Institute
SEDCO  Small Enterprises Development Company
SIDC  Swaziland Industrial Development Corporation
SIPA  Swaziland Investment Promotion Authority
SNL  Swazi National Land
SNLTC  Swaziland National Trust Commission
SPEED  Smart Programme on Economic Empowerment and Development
SPTC  Swaziland Post and Telecommunications Corporations
SRIC  Swaziland Royal Insurance Corporation
SWAC  Swaziland Water Corporation
UNISWA  University of Swaziland
VAT  Value Added Tax
EXECUTIVE SUMMARY

I. INTRODUCTION

1.1 In 1999, the African Development Bank adopted a good governance policy with an aim to provide support and interventions that promote good governance in its Regional Member Countries (RMCs). This is because good governance is generally a necessary condition for the success of the Bank’s core interventions to promote economic and social development in RMCs. The Bank Group’s strategic plan for the period 2003-2007 also emphasizes the promotion of good governance in RMCs as one of the important building blocks of the poverty reduction programme.

1.2 This is the first Country Governance Profile (CGP) for the Kingdom of Swaziland. The CGP provides an analytical background of the governance arrangements in Swaziland and will serve as key tool for dialogue with the Swaziland government. The report highlights the possible areas for Bank’s interventions to support governance improvements efforts. The CGP for Swaziland was prepared in a participatory manner following a mission undertaken by the Bank in September 2004 during which discussions were held with political leaders, government officials, the private sector, the civil society and other major stakeholders in order on major governance issues in the country.

II. STATUS GOVERNANCE IN SWAZILAND

2.1 The Swaziland government has initiated several legal, institutional, financial, and constitutional reforms to improve governance, accountability, and transparency across the public sector and civil services. Amongst others these initiatives include, drafting of a new constitution, public sector management reforms, fiscal restructuring, strengthening of anti-corruption measures, and measures to improve human rights. The Prime Minister has shown a strong will to initiate and implement various reforms that have also been supported by the King His Majesty Mswati III. It is expected that if implemented, these reforms will aid in the poverty reduction, human capital development, sustainable growth and improvement in the quality of life in Swaziland.

2.2 Despite the commitment shown by the government to good governance, its pursuit is not guided by any coherent policy framework. There are serious challenges confronting the government’s endeavour. One of the key challenges relates to the perceived dual system of governance that has the potential to pose accountability and transparency problems. To ensure long term sustainable economic growth, it would also be necessary to restructure the public sector and increase private sector’s contribution in overcoming the inefficiency and misuse of public finances.

2.3 It is therefore, recommended that a formal coherent framework be developed for implementation of good governance in Swaziland. The present government has initiated various reforms in this direction, however what is now required is to identify the policy overlaps and capacity gaps and coordinate the efforts of various departments for effective implementation of government’s good governance agenda. An effective governance system would also require clarity of different but not necessarily incompatible roles of the monarchy and the government.
III. SCOPE FOR BANK ASSISTANCE

3.1 The Bank’s contribution to good governance should focus on two areas, namely, first, assist the government to improve the public sector institutional management by providing expert advice and training in development of a comprehensive performance monitoring system; and, second, assist the government to develop and maintain a sound, transparent and rules-based regulatory environment conducive to private sector development, through capacity strengthening in the public and legal sectors. The Bank could also offer support in funding a comprehensive review of the existing regulatory framework and corporate governance systems and initiatives required by the Swaziland government in compliance with the OECD Principles of Corporate Governance.

3.2 The envisaged support in the area of governance would consist of both lending and grant-financed activities. The lending activity would take the form of budget support for reforms in public administration or public finance; while grant resources may be obtained from the Middle-Income Countries (MIC) Trust Fund for institutional support and capacity building.

3.3 Two possible areas are available for support from the MIC Trust Fund, both related to institutional strengthening and capacity building. These include support for the decentralisation programme and supporting the programme to improve the legal and judicial framework that the Ministry of Justice is currently working.

IV RECOMMENDATIONS

In view of the efforts currently being made by the Government of Swaziland to address challenges in promoting good governance, the country deserves to benefit from assistance and support from the Bank Group and other development partners to facilitate the operationalisation of its governance agenda.
I. INTRODUCTION

1.1 Background and Justification

1.1.1 The African Development Bank increasingly stresses the importance of supporting practices and interventions that promote good governance in the Regional Member Countries (RMCs). This is based on the general observation that good governance is a necessary condition for the success of the Bank’s core interventions to promote economic and social development in the RMCs. In 1999, the Bank Group adopted a governance policy, which aims to strengthen its efforts towards promoting good governance in RMCs. The Bank Group’s strategic plan for the period 2003-2007 emphasizes the promotion of good governance in RMCs as one important building block in the fight against poverty.

1.1.2 This Country Governance Profile (CGP) is the first to be prepared by the Bank in the country and is expected to provide the analytical background towards improving the knowledge base of Bank Group operations in support of good governance in the country, and will thus, also serve as a key tool for dialogue with the authorities on governance issues. The CGP therefore outlines the major governance issues in Swaziland and identifies possible areas of Bank Group interventions in support of governance improvement efforts in the country. The CGP for Swaziland was prepared in a participatory manner following a mission undertaken by the Bank in September 2004 during which discussions were held with political leaders, government officials, the private sector, the civil society and other major stakeholders on major governance issues in the country.

1.2 Governance Arrangements in Swaziland

Swaziland is an independent sovereign Kingdom that is governed through a system that blends the Swazi traditional system with the modern Westminster system, based on the principle of regional decentralized state power, while maintaining a unitary form of state organization. The country operates a system of governance that is a product of two influences: the traditional system and western models of governance, with the King at the head of both systems. The dualism that characterises the political governance system also permeates the legal system, where Roman-Dutch law co-exists with traditional law, though in situations where there is a conflict, the Roman-Dutch is deemed superior. The challenge for the country has been to develop modern political and administrative structures to complement the traditional institutions. An attempt has been made to achieve this through a decentralised system of governance with three tiers: national/central government, local government, and regional structures known as Tinkundla. Local government is applied to the administration of urban areas, while the Tinkundla system, which is a complex traditional model of election through which representatives are chosen, covers the 250 chiefdoms grouped into 55 constituencies. The central government and local government systems follow the western model, while Swazi customary law governs the traditional structures. As the CGP shows, the system has a number of advantages including national cohesion, which is necessary for peace and stability. However, this system also implies that in practice there are de-facto two bureaucracies running parallel, and the line between them is blurred.
1.3 **Good Governance and Poverty Reduction**

1.3.1 Good governance is dependent upon the efficient and decentralised management of public policy in which people are empowered to participate in and influence the process of poverty reduction and the sustainable growth of the economy, while the role of Government in governance is that of creating an enabling environment for the reinforcement of democracy on the political front, and to sustain investor confidence, on the economic front. Poverty remains a serious and extensive problem in Swaziland, with the majority of the poor living in rural areas and subsisting on agriculture for their livelihood. As elsewhere, in Swaziland, poverty reduction and the pursuit of good governance are intimately related. Poverty reduction requires an attack on poverty on a number of fronts, including creating opportunities for the poor through sustainable development, providing security at individual and national levels against external shocks, and empowering the poor by increasing their voice and participation in decision-making. Poor governance, on the other hand, hurts the poor as it results in a sub-optimal allocation of resources to combat poverty, while lack of legal and civil rights keep the poor at a disadvantage. On the other hand, good governance helps the poor by facilitating market activities and economic growth, promoting participation and empowerment, and delivering high-quality services while minimising corruption. Where corruption is rife, the provision of public services is diverted from those who need them the most.

1.3.2 Effective governance institutions, such as parliament and the judiciary play an important role in the fight against poverty by empowering the poor. For example, parliament has an oversight role to ensure that the formulation and implementation of policies serves all the people, and that poverty reduction objectives are set and monitored for the greatest possible impact and effectiveness. Further, in the process of carrying out its lawmaking and oversight functions, parliament has the opportunity to facilitate the participation of ordinary citizens in developing and monitoring public policies. The executive can also play an important role in the fight against corruption by giving voice to the poor. Also, an effective and functioning judiciary can play an important role in sustainable development by ensuring the enforcement of property rights, acting as a check on abuses of government power, and otherwise upholding the rule of law. On the other hand, where the application of laws is discriminatory and enforcement arbitrary, the poor are deprived of the basic protection of their individual and property rights.

1.3.3 Swaziland is in the process of preparing a Poverty Reduction Strategy (PRS), whose overall objective is to reduce the incidence of poverty in Swaziland from its current level of 66 per cent to 30 per cent by 2015\(^1\), in line with the MDG and eliminate it by 2022. To date, a Poverty Reduction Strategy and Action Plan has been released (PRSAP), whose main pillars include rapid acceleration of economic growth based on broad participation; empowering the poor to generate their own income; and, an equitable distribution of the benefits of growth through public spending. The proposed strategy will focus on poverty reduction efforts in the areas where the poor live by improving their access to social services, principally education, health and nutrition. The PRSAP also contains concrete projects and programmes, which are designed to generate income and create employment, combat the HIV/AIDS pandemic and minimise vulnerability, and enhance agricultural production and food security. A Poverty Monitoring Unit has been established in the Ministry of Economic Planning and Development.

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\(^1\) According to the 2005/06 Budget Statement, the level of poverty is estimated to now affect 69% of the population.
1.3.4 With regard to governance and poverty reduction, the major challenge faced by the country is two-fold: to achieve higher GDP growth with a relatively low investment in order to generate sufficient employment opportunities, and to ensure that the growth pattern is pro-poor. Between 2000 and 2004, real GDP increased by 2.4 per cent on average, while population increased by 2.9 per cent, and rate of unemployment averaged 30.3 per cent. Recent statistics show that over the same period, poverty has increased and now afflicts about 69 per cent of the population. If this trend continues, Swaziland will not meet the MDG goal of halving the proportion of the poor over the next ten years, unless closer attention is paid to pro-poor growth concerns. For Swaziland, designing pro-poor growth policies would involve addressing the structural features of the economy which constrain its capacity to achieve greater equity and poverty reduction and removing the barriers that prevent the poor from accessing resources, social services and having a say in government decision-making. That is, given that a large proportion of the population lives in poverty, the challenge for Swaziland is to re-orient the structure of the economy and state institutions, both at the national and decentralized levels, in favour of the poor. Attention will need to be paid to in a number of areas, including rural development, undertaking measures to remove barriers that prevent the poor from participating in economic growth, empowering the poor, especially women and HIV/AIDS orphans and the aged, who make up the bulk of the chronically poor, and giving a voice to the poor. Hence improving the way people are governed will be crucial for dealing with the socio-economic challenges that face the Kingdom.

1.4 **Key Elements of Governance**

In operationalising its agenda on good governance, the Bank focuses on the five key elements of good governance, namely, accountability, transparency, combating corruption, participatory governance and legal and judicial reforms. In the design of its projects and programs on governance, the Bank pays attention to the issues of civil service restructuring, reform of the legal and judicial systems, strengthening financial management capacity, instituting participatory approaches, and institutional decentralization.

11 **AN ASSESSMENT OF MAJOR GOVERNANCE ISSUES IN SWAZILAND**

Swaziland faces a number of serious governance challenges, especially in the areas of institutional reforms and capacity of the state to respond to social challenges, democracy and rule of law. A number of organizations have compiled governance indicators, which suggest that the governance situation is a cause for concern in Swaziland (see Box 1). Indicators compiled by the World Bank show that in terms of percentile rankings, the governance situation in Swaziland has worsened in all areas (with the exception of political stability), especially in the area of voice accountability, control of corruption and rule of law. A similar picture emerges from the indicators compiled by the Heritage Foundation and Wall Street Journal, and by Freedom House, both which indicate deterioration in the governance situation. However, the current government in power since 2003 is making significant strides in improving good governance, including restoring the rule of law, strengthening economic governance and tackling corruption. This section will assess major governance issues in Swaziland in terms of accountability, accountability, transparency, combating corruption, participatory governance and legal and judicial reforms.

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2 The inclusion of these indicators in this Report does not necessarily imply their endorsement by the African Development Bank.
Box 1: World Governance Indicators and the Ranking for Swaziland

a) Worldwide Governance Research Indicators Report
There exists a list of commonly used world indicators on governance. For instance, the 2004 Worldwide Governance Research Indicators Report reviewed six indicators: voice and accountability (measuring various aspects of the political processes, civil liberties and political rights), political stability (measures the perception of the likelihood of a change in government, domestic violence and terrorism), Governance effectiveness (quality of public service provision, bureaucracy, the competence of civil servants, government policy credibility & independence of civil service from political pressures), regulatory quality (incidence of market-unfriendly policies such as price controls or inadequate bank supervision, excessive regulation), the rule of law (effectiveness and predictability of the judiciary, enforceability of contracts, incidence of crime), and, control of corruption (perception of corruption). According to the 2004 rankings, Swaziland was ranked among the lowest on the indicator ‘voice and accountability’, followed by ‘control of corruption’ and the ‘rule of law’. The highest ranking for Swaziland was on the ‘political stability’ indicator.

Table a: Governance Indicators for Swaziland

<table>
<thead>
<tr>
<th>Governance Indicator</th>
<th>Year</th>
<th>Percentile Rank (0-100)</th>
<th>Estimate (-2.5 to + 2.5)</th>
<th>Standard Deviation</th>
<th>Number of surveys/polls</th>
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<td>Voice and Accountability</td>
<td>2004</td>
<td>10.2</td>
<td>-1.45</td>
<td>0.18</td>
<td>5</td>
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<tr>
<td></td>
<td>1998</td>
<td>20.4</td>
<td>-0.92</td>
<td>0.30</td>
<td>2</td>
</tr>
<tr>
<td>Political Stability</td>
<td>2004</td>
<td>53.9</td>
<td>+0.23</td>
<td>0.30</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>1998</td>
<td>44.2</td>
<td>-0.14</td>
<td>0.46</td>
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<td>Government Effectiveness</td>
<td>2004</td>
<td>31.3</td>
<td>-0.60</td>
<td>0.20</td>
<td>7</td>
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<tr>
<td></td>
<td>1998</td>
<td>29.0</td>
<td>-0.53</td>
<td>0.26</td>
<td>3</td>
</tr>
<tr>
<td>Regulatory Quality</td>
<td>2004</td>
<td>37.9</td>
<td>-0.36</td>
<td>0.25</td>
<td>7</td>
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<tr>
<td></td>
<td>1998</td>
<td>51.6</td>
<td>+0.21</td>
<td>0.30</td>
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<tr>
<td>Rule of Law</td>
<td>2004</td>
<td>19.3</td>
<td>-0.95</td>
<td>0.16</td>
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<tr>
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<td>1998</td>
<td>53.5</td>
<td>-0.17</td>
<td>0.31</td>
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<tr>
<td>Control of Corruption</td>
<td>2004</td>
<td>13.8</td>
<td>-0.95</td>
<td>0.19</td>
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<tr>
<td></td>
<td>1998</td>
<td>59.0</td>
<td>-0.19</td>
<td>0.24</td>
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b) Freedom in the World 2005
Ten Year Ratings Timeline (Political Rights, Civil Liberties, Status):

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<td>6,5,NF</td>
<td>6,5,NF</td>
<td>6,5,NF</td>
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<td>6,5,NF</td>
<td>6,5,NF</td>
<td>6,5,NF</td>
<td>7,5,NF</td>
</tr>
</tbody>
</table>


According to the 2005 Report, Swaziland’s status remains ‘not free’, with a score of 7 for ‘political rights’ and 5 for ‘civil liberty’, where 1 represents the most free and 7 the least free. This rating is closely in line with the World Bank rankings above.

c) 2005 Index of Economic Freedom
In this report, Swaziland is ranked 77 out of 161 countries surveyed, with a score of 3.06. Lower score represents greater freedom from Government interference, whereas higher scores represents less economic freedom a country enjoys. The higher scores were for ‘fiscal burden’, ‘foreign investment’ and ‘informal market’, whereas, the lower scores went to trade policy and Governance intervention.

2.1 Accountability

2.1.1 Accountability is a critical element of good governance, and is a means towards the development of a more efficient and effective organisation. Politicians and public officials have been entrusted with resources and enormous political, administrative and legal powers which

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Note: The governance indicators presented here reflect the statistical compilation of responses on the quality of governance given by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries, as reported by a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The aggregate indicators in no way reflect the official position of the World Bank, its Executive Directors, or the countries they represent. As discussed in detail in the accompanying papers, countries’ relative positions on these indicators are subject to margins of error that are clearly indicated. Consequently, precise country rankings should not be inferred from this data.
they exercise on behalf of society. Accountability is a means of ensuring the appropriate use of this power and resources in accordance with public interest. Accountability has a number of dimensions, namely, political accountability, administrative accountability, and financial and budgetary accountability.

A. Political Accountability

The Constitution

2.1.2 In any democracy, the observance of the Constitution is an important test of political accountability. At the time of independence in 1968, Swaziland inherited a Westminster style Constitution that contained an expansive Bill of Rights and a firm separation of powers between the Executive, Legislative and Judicial branches of Government. After the 1972 elections, in which the opposition won 20 per cent of the seats, Parliament impressed upon the King through a motion that the Westminster styled Constitution was not compatible with the Swazi law and custom and that there was a need to change the system. As a result on April 13 1973, His Majesty King Sobhuza II repealed the 1968 Constitution, dissolved Parliament and assumed all judicial, legislative and executive powers and banned all political parties, which were seen as the main cause of unrest and divisions. However, certain constitutional provisions relating to the courts and the administration of justice were retained. From 1973 to 1978 His Majesty King Sobhuza II ruled Swaziland without elected Parliament, and enacted laws through Royal Decrees and Royal Orders in Council. In 1978 the Establishment of the Parliament of Swaziland Order was issued and legislative power previously held by the King was returned to the people through the establishment of the Tinkhundla system. However, the King retained his executive powers and political parties remained banned.

2.1.3 To enhance good governance, in 1996, His Majesty, King Mswati III, appointed a 30-member Constitutional Review Commission (CRC) to review the constitutional system, examine the wishes of the Swazi nation on how it wishes to be governed, and make recommendations on a new Constitution (Decree No. 2 of 1996). In its Report to the King, the CRC concluded that there was overwhelming support for the current system of government based on the Tinkhundla; for the King to retain his executive powers; for political parties to remain banned; and for the supremacy of Swazi custom in cases where it was in conflict with international human rights standards. The recommendations of the CRC seemed to argue for the maintenance of the status quo.

2.1.4 In a move designed to bring about more constitutional reforms, in March 2002 His Majesty appointed another 16 member commission, the Constitutional Drafting Committee (CDC), headed by the former Swaziland Ambassador to Scandinavia, Prince David Dlamini. The CDC held wide consultations within the country and received technical assistance from the Commonwealth Secretariat, and other expert submissions, such as from the Lawyers for Human Rights (Swaziland). In May 2003 the Commission presented a draft constitution to the King, which was discussed throughout 2004. A joint sitting of Parliament passed the Constitution Bill in June 2005, and is now awaiting royal assent for it to become the Supreme Law of Swaziland.
2.1.5 While retaining the power and in some cases even cementing the power of the traditional elite, the Constitution Bill introduces a number of important changes designed to enhance democracy throughout the kingdom. The Monarch remains above the law and is not subject to parliamentary legislation. However, while the King retains all executive authority to, among others, assent to and sign bills; summon and dissolve Parliament; receive foreign envoys and appoint diplomats; issue pardons, reprieves or commute sentences; declare a state of emergency; and, confer honours, there are clear procedures laid down for the exercise of such executive powers. The Constitution provides for the establishment of the King’s Advisory Council, whose members are appointed by the King, though the size of the Council is not specified. Supreme legislative authority is vested in the King-in-Parliament, with such authority exercised through bills passed by both chambers. Bills will still require the King’s assent to become law. An important addition in the Constitution Bill is the inclusion of provisions that protect and promote fundamental rights and freedoms, and the establishment of an independent Human Rights and Public Administration Commission to be appointed by His Majesty on the advice of the Judicial Services Commission. On the rights and freedom of women, the Constitution Bill states that “Women have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.” It also requires the Government to provide facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement. Thus, it provides for gender equality, lifts women out of their legal minority status and even establishes a quota of parliamentary seats to be set aside for women. However, in the discussions with civil society groups, concerns were expressed that other provisions in the constitution nullify some of these rights, especially the one stating that any and all matters raised in the constitution cannot conflict with the traditional way of life of Swaziland. As such, the protection and promotion of gender rights may not always be secure and neither is it absolute.

2.1.6 Accountability in the Traditional System of Governance: The Swazi traditional framework is administered according to the largely unwritten Swazi law and custom. Under the traditional system, the King, ruling as the Ngwenyama is the head of the Swazi State and is chosen by virtue of the rank and character of the mother in accordance with Swazi law and custom. While the King has absolute political power, he exercises this in consultation with the Ndlovukazi, the Queen Mother who has an advisory role. The King and the Queen Mother enjoy legal protection and immunity from legal suit or process. The King also receives advice from Bantfwabenhosi or the Princes of the Realm, and the Council of State, which is responsible to Sibaya or the Swazi National Council, the highest policy and advisory council of the nation. According to the King’s Proclamation No. 1 of 1981 the Swazi National Council is composed of the Ngwenyama, the Ndlovukazi, Bantfwabenhosi, Chiefs and all adult citizens gathered at the official residence of the Ndlovukazi, under the chairmanship of the Senior Prince, who is sometimes referred in the press as the Traditional Prime Minister. The Senior Prince, who is an uncle to the King, is appointed in accordance with Swazi law and customs and is also the chairman of the King’s Advisory Council. The Sibaya functions as the annual general meeting of the nation where chiefs of the realm and all adult citizens gather. This can be convened at any time to present the views of the nation on pressing and controversial national issues. Thus, on

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4 With the assistance of the UNDP, progress has been made in codifying Swazi law and custom, and 12 manuals have since been produced. These manuals are a record of facts on Swazi law and custom as well as a highlight on how customary law facilitates development and serve the nation in its governance.
special occasions, the King calls the nation to the royal kraal for consultations. For example, in September 2004, the King summoned the nation to the royal kraal to air views on the draft constitution. The Sibaya can thus, be seen as a means of ensuring accountability within the traditional framework, and has potentially strong moral suasion force on the traditional authorities. It can also be used by the Monarch to directly gauge the mood of the nation. At the local level, the King governs through chiefs, who are considered by ordinary Swazis as an important link in Swaziland between people and government. In the protocol order, the Chiefs take precedence over Cabinet Ministers and Members of Parliament. As custodians of the Swazi law and custom, and with the majority of Swazis living in homesteads, chiefs play an important and significant role in the governance of the country. They also have direct access to the King and, from time to time, are summoned for consultations with the King.

2.1.7 Accountability in the Western Parliamentary System of Governance. This system consists of the King as head of state with full executive powers and a government headed by a Prime Minister and a cabinet supported by a technocratic civil service; an elected parliament with two chambers; and a judiciary that is constitutional (saved up provisions) independent. The King appoints the Prime Minister from the House of Assembly to run the day-to-day affairs of Government, together with a Cabinet appointed from sitting Members of Parliament. The Prime Minister can only be appointed for two consecutive terms. There are currently 14 Ministries headed by a Minister as the political head and a principal secretary as the administrative head and financial controlling officer. The Cabinet advises the King in the Governance of Swaziland, and is also collectively responsible to Parliament for any advice given to the King.

2.1.8 The Parliament of Swaziland consists of a Senate and a House of Assembly, both which sit for a period of five years. The House of Assembly, which is the lower house, consists of 55 publicly elected members and 10 monarch appointed members, 7 of which are women MPs in the current Parliament. The Senate, on the other hand, has 30 non-partisan members, 10 members elected by the House of Assembly and 20 members appointed by Monarch, of which in the current Parliament, 11 are women. Swaziland is, however, yet to reach the SADC target of 30 per cent of members of Parliament being women, since in the Swazi Parliament, women account for 17.9 per cent of the total number of members of parliament. This however, is an improvement from the previous Parliament, where women accounted for only 7.3 per cent of the members. For enactment of a law, a bill has to be introduced in either chamber of the Parliament. However, the bill does not become a law without the King’s assent. There are no political parties represented in the Swazi Parliament, as they are not allowed to contest. Rather, the Tinkundla, made up of a number of chiefdoms, form the constituencies around which primary and secondary elections are organised. Primary level elections consist of one or more chiefdoms, which act as nomination areas for the elected members of the House. In the secondary level elections, the Tinkhundla is used as a constituency and the winners from the chiefdoms compete with the winners from other chiefdoms.

2.1.9 The present governance system prevailing in Swaziland presents a number of challenges. Since the Head of the State exercises legislative, executive and judicial powers in the traditional system and is also at the head of the modern parliamentary system of government, the demarcation between matters requiring the application of Swazi law and custom and those of Government involving Roman-Dutch law, is sometimes not as clear-cut. For example, some
cases, including those related to the industrial relations disputes, frequently find a forum before
the traditional authorities rather than the industrial courts, where they rightly belong. Second,
confusion may arise since the two systems of administration share the same territory and
sometimes the same personnel. These arrangements not only lead to conflicting public policies
and instructions but may also compromise or lead to abandonment of critical decisions. In the
past, there have been instances whereby the Executive threatened the judicial independence
where it conflicted with entrenched interests. Further complications have arisen due to the
enactment of law by three sources viz. a) Acts of Parliament b) Kings Orders in Council when
parliament is not in session and c) Royal Decree.

2.1.10 Unless carefully managed, this co-existence of the traditional and modern system may
pose challenges to standards and principles of good governance and the rule of law. Ideally, the
system could be greatly improved by instituting a good balance and separation of powers among
the three wings of the state, namely, the Executive, the Legislature and the Judiciary. Currently,
the Legislative, Executive and Judicial powers are more or less vested with the King. However, it
is encouraging to note that the Constitution Bill of Swaziland provides a good starting point
defining the powers of the different arms of government and the role of the monarchy.

The Electoral System and Accountability

2.1.11 Section 7 of the establishment of the Parliament of Swaziland Order 1992 provides for
the election of members of the House of Assembly at both primary and secondary levels to be
done so through a Secret Ballot. Under this Electoral System, based on the Tinkhundla system,
people are nominated and elected not on Party basis, but on Personal Merits. In Swaziland,
Parliamentary and Local Government elections are conducted and controlled by the Chief
Electoral Officer who is assisted by the Deputy Chief Electoral Officer and both are appointed
by the King in terms of Section 3 (1) of the Elections Order 1992. In 2002 the office was
restructured to include a permanent Secretariat staff headed by the Head of Secretariat and a few
Staff members. The Office is independent and is responsible for conducting free and fair
elections on a regular basis. Its functions are stipulated in Section 4 of the Electoral Office
Order, 1998 and includes: supervision and conduct of elections of the elected Members of the
House of Assembly and all other elections at both Primary and Secondary Levels; conduct
continuous civic education on the electoral process before and after elections; prepare and
maintain a general register of elections; prepare and submit the Report on Election; and,
generally administer the provisions of the Order. There is evidence supporting the independence
of the Office as guaranteed by Section 5(5) of the Electoral Office Order 1998. However, in the
conduct of their functions, this office is constrained by the lack of adequate resources that, to all
intents and purposes, may compromise its effectiveness, though not necessarily its credibility.

2.1.12 Swaziland is signatory to SADC Principles and Guidelines Governing Democratic
Elections, which commits SADC member states to the following best practices: (i) Full
participation of the citizens in the political process; (ii) Freedom of association; (iii) Political
tolerance; (iv) Regular intervals for elections as provided for by the respective National

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5 For example, in 2002 High Court Judges came under pressure from the Attorney General to discontinue the case against two royal messengers
accused of abduction, failing which they should resign. When the Courts charged the Attorney General with contempt of court and sedition as a
result the ultimatum given to the Judges, the Director of Public Prosecution in turn came under pressure to withdraw charges against the Attorney
General. (see the 2003 Report of the International Bar Association (IBA)).
Constitutions; (v) Equal opportunity for all political parties to access the state media; (vi) Equal opportunity to exercise the right to vote and be voted for; (vii) Independence of the judiciary and impartiality of the electoral institutions; (viii) Voter education; (ix) Acceptance and respect of the election results by political parties proclaimed to have been free and fair by competent national authorities in accordance with the law of the land; and (x) Challenge to the election results as provided for in the law of the land. While in general the current electoral process and institutions are not in conflict with the SADC principles, civil society organisations have expressed concern that the continuous ban on political parties from operating or contesting elections is a violation of, among others, the principle of freedom of association and expression.

B. Administrative Accountability

Public Sector Management

2.1.13. The public sector in Swaziland comprises the civil service and parastatals organisations. The civil service is organised under a Civil Service Board (CSB). Within the parastatals, there are some that have been partially privatised or run their operations on commercial principles and others, which require government subventions.

Civil Services Management

2.1.14 The Civil Service Board (CSB) is established under section 3 of the amended Civil Order Act (1973). The Act suggests that the Board should have “no less than four” members appointed by the King on terms and conditions as he may deem fit. The Board is mainly responsible for the recruitment, retention of the right number and quality of staff, training, provision of equal opportunity and fair treatment in appointments, promotions, discipline, secondment and termination of the employment of civil servants. The Prime Minister, however, has the authority to transfer, but in consultation with the CBS. In general, the Board has a fair degree of autonomy in carrying out its day-to-day activities.

2.1.15 The office of Director of CSB is entrusted with the task of recruitment of staff. The CSB also organizes training courses for civil servants and has a budget of E10m for this purpose. The CSB does not seem to have clear a system that ensures a career plan for the civil servants, and it does not undertake the task of performance appraisal and monitoring. This is done at individual ministries level. There is a general lack of performance monitoring management system that rewards good performance and punishes poor performance. However, these issues are currently under review and some strategies to improve human resource planning, training, performance monitoring, placements, and promotions are highlighted in the National Development Strategy (NDS) Vision 2022 launched by His Majesty King Mswati III in 1999. The NDS also articulates strategies for institutional reforms aimed at streamlining organisational functions and structure of personnel in the public services, to avoid fragmentation and duplication of functions and measurement of effectiveness of public services and to promote greater transparency. This is supported by the recent Transformation Policy Statement announced by the Prime Minister in September 2004 in which he emphasised government’s commitment towards a comprehensive review of public services that will include an objective assessment of the requirements of ministries and departments.

6 SADC. 2004. SADC Principles and Guidelines Governing Democratic Elections, Gaborone, Botswana (mimeo)
Issues and challenges in management of civil services

2.1.16 Lack of a Constitution poses difficulties in the management of civil services. Under the present arrangement, section 3 of the Civil Service Order (1973) vests in the Prime Minister the authority in the civil service to appoint, promote, discipline, transfer, etc. It follows that the CSB is only advisory to the Prime Minister. The senior appointments are made by the King on recommendations of the Prime Minister. Although, the Civil Services Order (1973) provides a procedure for promotions and discipline, Swaziland’s civil service suffers from a weak monitoring system that leads to a lack of sanctions against poor performance and rewards for good performance. Also, ministries complain of considerable delays in meeting their needs with respect to filling of vacant posts by new appointments or promotions. There are counter accusations from both ministries and the CSB as to the causes for the delay. The Board insists that most of the delays are caused by the inability of ministries and poor management practices. The ministries on the other hand have accused the CSB of poor selection and nepotism and corruption in dealing with cases of appointments and promotions. The main reasons for delays in appointments appear to be two fold. First, although the CSB coordinates the appointments, it does not seem to have the capacity for dealing with these matters expeditiously. Two, the recruitment and selection process is lengthy and at times undermines the ministerial selection process. This suggests that there is a need for a comprehensive review of the issues of accountability in the public sector. Specifically, there is need for a Public Service Bill that will provide for establishment of the Civil Service Commission and Public Service as independent bodies. There is an urgent need to make changes in the relevant 1973 Act to make appointments of the Chairman and Board Members more open, transparent and competitive on the basis of merit. All functions vested in the Prime Minister should be delegated to the Board so that it becomes an executive authority.

2.1.17 Although progress has been made towards introduction of measures to promote public service ethics and accountability, the government should endeavour to move this forward by making progress on the implementation of Public Sector Management Programme (PSMP). The PSMP examines government’s resource allocations, expenditure trends, organisational structures, and policies and procedures in each ministry. Its purpose is to limit the size and improve the efficiency of the civil service. It has adopted a four-phased approach that comprise management audits, ministerial review and implementation workshops, national review and implementation workshops, and monitoring and evaluation. The new Constitution provides a framework for civil service arrangements.

2.1.18 As already noted above, the appointments and promotions to the civil service are highly centralized and poses serious problems. It delays in meeting the needs of ministries with respect to filling vacant posts by way of new appointment or promotion. As a result, vacancies in ministries remain unfilled, for a long time. Some of these are very critical to the operations of the particular ministries. The PSMP has recommended that hiring and promotion of civil service staff be decentralized. Yet, the problem of delays goes beyond the issue of a centralized agency. Over and above that, the CSB has no capacity to function expeditiously because of the number and quality of the support staff does not provide for quick decision making which is required in dealing with appointments, promotions and more importantly, disciplining of civil servants. The Secretariat is understaffed in some areas; both in terms of absolute numbers of staff and also in their skills mix.
The Cost and Size Study

2.1.19 A PricewaterhouseCoopers report of July 2003 on Comparative Study to Determine the Required Size and Sustainable Cost of the Swaziland Civil Service has further identified areas for improvements. A Reform process comprising passive and pro-active strategies for reducing the size of the civil service is envisaged. Under this reform process, three feasible short-term options for “right sizing” of unsustainable staff are proposed. The first option aims to reduce the creation of new posts especially in the Army, Correctional services and the Police. Option two identifies and removes areas of wastage by reducing duplication and unproductive activities. The third option aims to introduce a voluntary retirement scheme for employees above 55 years of age. The number of employees who are over 55 years of age are estimated to be around 664. It is anticipated that the government will save around E30m per annum as an annual wage bill if all those employees over the age of 55 were to accept early retirement and only extremely limited number of posts are refilled. However, this plan does have knock-on effect on the Public Service Pension Fund (PSPF) since the fund stands to lose on pension contributions and meet the increase in pension/gratuity payouts to those members retiring earlier than expected. Nevertheless, it is expected that even if the government were to compensate the PSPF for the losses, it would still make a significant amount of net saving totalling E50m over the five-year period. The size of the government’s payroll has been identified as the main contributing factor to the high government expenditure. In September 2004, the government announced a huge salary adjustment for public servants, some of which go up to about 90 percent. This has been viewed with concern by the country’s development partners. However, government has been under pressure to increase wages for public servants, many of whom have been leaving the country for better wages and service conditions. In their last assessment\(^7\), the IMF had warned the Swaziland Government against spending too much on the wage bill and had advised to restructure the civil service to improve efficiency. It is worth noting that two-thirds of the population lives on at least US$1 (about E6.50) per day. The challenge is to now finalise the technicalities of the implementation of the comparative cost and size study and to act on the provision of adequate financial compensation, training, and appropriate incentives for private sector to employ retrenched staff. During the 2004-2005 budget, for instance, the Government set aside E22.6m for initiating reforms with the aim of reducing costs by refocusing activities towards making government work more effectively and efficiently. However, because of the lack of extensive public education there is some resistance to the reforms as civil servants are concerned about prospects for retrenchment.

Public Enterprises

2.1.20 Presently, Swaziland has 45 Public Enterprises (PEs) of which 29 are designated category “A” public enterprise, 4 of which are dormant. The remaining 16 are designated category “B” Public Enterprises. Category “B” PEs are those enterprises in which the government has minority interest. Category “A” PEs are either wholly or substantially owned by government or supported by subsidies. The PEs support most of the national infrastructure including water supplies, electricity, telecommunications, rail and air transport, institutes for tertiary education and hospitality industries. In 2004, their workforce represented almost 22 percent of public sector employment and 7 percent of formal sector employment. The total debt of PEs is estimated to be in the region of E311.8m, which represents almost 11.5 percent of total external debt of the GOS. A significant portion of this debt is denominated in foreign currency.

\(^7\) 2004 Article IV Consultation Report presented to the IMF Board on February 18 2005.
2.2.21 According to *Economic Review and Outlook 2002-2006 report of March 2004* prepared by the Ministry of Economic Planning and Development (MEPD), the total revenue from the Public Enterprises (excluding subventions) for the year 2001 was E855.6m, which was about 7 percent of the GDP. However, the overall operating deficit was E84.7m and if government subventions were considered, this deficit turns into a surplus of E66m. Figures from the Economic Review and Outlook Report suggest that 13 out of 20 public enterprises recorded a surplus in the year 2001.

**Performance Monitoring of Public Enterprises**

2.1.22 The Public Enterprise Unit (PEU), a department under the Ministry of Finance (MOF) is responsible for monitoring financial and operational affairs of public enterprises under a legislative framework provided by the Public Enterprise Control & Monitoring Act of 1989. The Act provides for an operational framework for corporate governance in Public Enterprise sector. Although, the PEU is responsible for regulating activities of the parastatals, the overall authority rests with the Standing Committee on Public Enterprises appointed by the Cabinet. Under the 1989 Act, members of the governing body of public enterprise, other than the CEO, are appointed by the Minister responsible, in consultation with the Standing Committee. This however does not apply to the University of Swaziland. Public Enterprise Boards comprise a minimum number of five and maximum of nine members. There is no provision for employee representation on the Board. The Act mentions that in making the appointment to the Board of Directors, the Minister should ensure that an overall balance of technical, professional, commercial, and financial skills is maintained. The Act also requires that in the interest of continuity; the Minister should endeavor to ensure that not all members of the Board retire at the same time. This arrangement suggests possibility of conflict of interest since the line ministries act both as a manager and as a regulator of PEs. In practice though the Line Ministry appoints one or more nominees on the Board. While this is not standard, there have also been one or two instances where rejected candidates for CEOs position have taken their grievances to the King and this has led to confusion and delays in appointment of CEOs. Newspaper reports suggest that there have been some cases of political interference in management of PEs. However, it is encouraging to note that the Prime Minister has publicly appealed to the Boards of PEs to stand up to any such pressures and engage in good governance. This further underlines the urgency for the adoption of the new Constitution that will provide clearer guidelines on the matter of authority of the executive and the monarchy.

2.1.23 Moreover, under the 1989 Act a category “A” Public Enterprise Governing Board can not make any major adjustments in tariffs, prices, or rates, take any major expansion or investment decision, make changes to salary structures, and close, sell, divest or liquidate any major part of the business without the approval of the Minister responsible acting in consultation with the Standing Committee. This further confirms that the authority to take major decisions rests with the Minister and the Standing Committee rather than the Governing Board, and points to the fact that the 1989 Act needs to be amended to ensure transparency in governance of PEs and to make governing boards more autonomous and independent.

2.1.24 The performance of public enterprises is monitored by quarterly reports that are submitted by each public enterprise to the PEU and their respective line ministries. Annual reports of each PE are audited and these are submitted to the PEU where these reports are consolidated and then submitted to the Standing Committee. Deviations from targets are monitored, however, at present there is no mechanism for levying sanctions/penalties on those public enterprises, which overspend or do not achieve their revenue/profit targets.
Public Enterprises Reforms

2.1.25 There is an urgent need for reforming public enterprises in Swaziland. Some of the public enterprises do not have a system of preparing financial plans and heavily depend on the government as the lender of last resort. According to the *Economic Review and Outlook 2002/03-2006/07* published by the Ministry of Economic Planning and Development, several parastatals have been unable to service their debts and this has required the government to take over their debt obligations and in some cases, to write off outstanding debt. The Report further adds that some public enterprises, e.g., Swaziland Electricity Board (SEB) and Swaziland Post and Telecommunications Corporation (SPTC) have suffered significant losses on account of foreign exchange exposure on their foreign debt.

2.1.26 As part of the efforts to reform public enterprises, the Budget Outlook Paper 2005/06-2007/08 proposes that during the financial year 2005/06, awards to public enterprises be considered on a case-by-case basis upon justification of the expenditure. In 2004/05, it is reported that category A public enterprises received about E304m, which is lower than the previous year level, where it was E324m. The government has also provided guarantees on domestic and foreign loans taken by the PEs and this has further increased the government’s financial burden. In the past, the government has been guilty of approving government subventions when the expenditures and salary increases were not justified. It is reported that the bulk of the government transfers goes towards financing of personnel costs. This suggests that there is an urgent need for implementation of the recommendations made in the Comparative Cost & Size Study. However, one of the key difficulties in the implementation of public enterprises reforms relates to the political interference and the lack of a transparent and comprehensive information system.

2.1.27 In order to overcome some of the problems discussed above and to create a business relationship with the public enterprises, the government is progressively making efforts to rationalize and restructure PEs. Moreover, the PEU has initiated steps to improve timely sharing of information and strategic plans with the public enterprises. The PEU is in the process of introducing performance contracts that will state targets that each public enterprise will be obliged to meet over a stipulated period of time. To support effective implementation of performance contracts, the PEU is developing a new set of financial and non-financial indicators specific to each public enterprise. The PEU is also taking initiatives aimed at capacity building by organising training programmes on corporate governance to clarify the role and responsibilities of directors of the public enterprises in Swaziland.

2.1.28 Some of the parastatals that have begun rationalization to concentrate on their core activity include Swaziland Railways, National Agriculture Marketing Board (NAMBOARD), Swazi Electricity Board (SEB), Swaziland Water Corporation (SWSC), Swaziland Post and Telecommunication, and Central Transport Authority (CTA). SWSC entered into a performance contract with the Government in 1997 and has been operating without government subventions from the year 2000 as per the terms of the contract. The government has also introduced performance contract in Swaziland Electricity Board (SEB) and is further aiming to introduce such contracts with those PEs which are receiving government subventions. These include the University of Swaziland, (UNISWA), the Swaziland National Trust Commission (SNCTC), Small Enterprise
Development Company (SEDCO), Motor Vehicle Authority (MVA), Swaziland Investment Promotion Authority (SIPA), and Sebenta National Institute (SEBENTA). According to the 2004 budget speech, CTA is projecting a surplus for 2005-06 after many years of deficit. One of the measures CTA has used for increasing its revenue is to increase the tariff charged to the government. However, it is still faced with the challenge of improving efficiency of their operation and control. There are encouraging signs from other parastatals as well. For instance, the Swaziland Development and Savings Bank (SDSB) recorded an after tax profit of about E11 million as at December 2004, with total assets recorded at E895.2 million, from E683.2 million in 2003. Swaziland Royal Insurance Corporation (SRIC) has also achieved good results registering a surplus of E51.687m and net earned income of E122 m, showing an increase of 31 percent for the year ended 2003.

2.1.29 At the micro-economic level, Smart Programme on Economic Empowerment and Development (SPEED) has been developed to target poverty reduction and job creation. The NDS also stresses on the importance of improving efficiency of PEs, to make them less dependent on government funds.

2.1.30 The Government through the Ministry of Finance developed a Privatisation Policy in 2003, which seeks to reform public enterprises by introducing performance contracts with the aim of encouraging the running of public enterprises on commercial principles and to reduce and ultimately eliminate dependency on government subventions. There has been some reform of public enterprises in Swaziland which in some cases has led to privatization, but that has been happening on an ad hoc basis without any policy guidelines. This includes the partial privatization of the Royal Swazi National Airways and the commercial arm of the Swaziland Dairy Board. There have been efforts to restructure some of the PEs so that they concentrate on core activities. Swaziland Railways now out-sources some of its operations, which were costly to run and has given its former employees affected by the restructuring the opportunity to provide the outsourced services. The National Agriculture Marketing Board is another government owned enterprise, which is in the process of leasing out its business units while retaining the statutory division as its core business. Some government owned hotels have also been leased out to increase the government revenue.

2.1.31 The recently approved privatisation policy aims to reduce government’s financial burden, improve public finances for funding future economic growth, introduce competition and market discipline, contribute to the development of financial and capital markets, encourage wider share ownership and improve delivery of essential public services. The privatisation policy provides for different forms of private sector participation and recognises that it is important to avoid inappropriate government intervention and circumvention in the privatisation process and in privatised entities. The proposed privatisation initiative is thus consistent with the Transformation Policy Statement announced by the Prime Minister in September 2004 in which he has acknowledged the importance of using the private sector as an engine for future economic growth, employment generation, and poverty reduction.

2.1.32 Government also proposes to establish a Public Enterprise Agency (PEA) by expanding the role of PEU. Among others, PEA’s main function will be to identify and recommend parastatals for privatisation, assisting line ministries in privatization and financial restructuring, preparing and implementing a public information campaign to educate the public about the benefits of privatization. There are plans to maximize the participation of Swazi citizens and Swazi companies in the privatisation process. The government recognizes that in some cases,
foreign participation may be necessary to meet the requirements of financial resources and technical expertise. The government is also in the process of drafting a legislation that will authorize them to appoint independent regulators for the energy and telecommunication sectors. This is an encouraging development that will further facilitate privatization of parastatals. The government has also announced its intention to encourage public-private partnerships to broaden participation in rendering public services.

2.1.33 The government via its privatisation policy document has expressed its intentions to consider the full range privatisation methods including Commercialisation, Corporatisation, Contracting-out, Management Contracts, creation of Franchises, Concessions, Leasing, Joint Ventures, Management/Employee Buyouts, Stock Market Flotation, Sale, and Liquidation. The choice of privatisation strategy/method will be determined by Government’s objectives, the economic and financial environment under which privatisation takes place and the needs of the particular public enterprise. The government intends to finance privatisation by encouraging Swazi nationals, employees and management of the parastatals to buy shares and by encouraging foreign ownership of the share capital. It also aims to corporatise the parastatals by capitalising their financial structure in accordance with the provisions in the new Companies Act and in line with the Generally Accepted Accounting Principles (GAAP) as well as to introduce articles of association that will outline the rights and duties of the directors of privatised parastatals.

2.1.34 The privatisation policy will strengthen current good corporate governance practices by ensuring that the appointment of board members of parastatals is based on merit and professional ability, and that there is balance between executive and non-executive directors on the Board, and that specialist advisors are appointed to complement existing resources. After advertising, shortlisting and interviews, the Board recommends the Chairman of the Board and Chief Executive Officer (CEO) to the concerned minister. The CEO and senior management staff will be employed on a contract basis and will be accountable to the Board, which in turn will be accountable to the concerned Minister. To ensure accountability, the privatisation policy proposes that performance targets will be set for all category “A” Public Enterprises and their performance monitored by the PEU. The management of the privatised PEs will have complete autonomy to set wage and salary structures with incentive packages for their staff subject to the approval by the Board. This privatisation policy provides for different forms of private sector participation and recognizes that it may not be appropriate to privatise some of the government functions.

2.1.35 As part of the privatisation agenda, the government is currently reviewing the existing legal framework with the aim to introduce appropriate laws and regulations for privatisation of parastatals. However, there is no indication that the government intends to enact a formal legislation that will ensure transparency in the privatisation of parastatals. On the other hand, the government intends to only review the founding statutes of parastatals and determine the need for changes/amendments on a case-by-case basis. Although, the privatisation policy document does provide for establishment of an independent regulator to regulate the activities of those industries that are “natural monopolies” and enforce regulation through licensing, determining initial price, setting technical and customer standards, and maintaining competition as well as for multi-sectoral regulation and establishment of multi-sector regulatory authorities, lack of a legal framework will adversely affect operations of the office of the regulator.
2.1.36 Despite the good intentions, the privatisation document does provide a scope for government interference because the voting rights at all general meetings of privatised companies will be exercised by the concerned minister or his/her representative. The policy also provides for ownership of “Golden Share” by the Government that will allow the government to retain control. Although the policy document provides for screening of nominations for Board membership by the PEA, the ultimate authority to appoint board members will rest with the concerned Minister. This is a serious governance issue that needs to be addressed. The lack of an appropriate legislative framework for enabling privatisation process is a matter of concern. There is thus a considerable scope for capacity building in this area.

C. Financial and Budgetary Accountability

Public Financial Management

The legal framework for financial management in Swaziland


2.1.38 The Parliament of Swaziland recently passed the Constitution, which addresses a number of legal and judicial issues regarding public sector financial management. The new constitution provides detailed sections concerning administration and operations of consolidated funds, contingency funds, and public debt. The new constitution also deals with the role and responsibilities of the central bank, the Auditor General’s office, and the Finance and Public Accounts Committees.

Budget Management

2.1.39 The Government of Swaziland has undertaken various initiatives to strengthen the public financial accountability framework. The Financial Management and Audit Act (1967) amended in April 1992, provides a legislative framework for receiving, recording and reporting of revenues and expenditures. The Act provides guidelines for preparation of government annual accounts and budget and audit of accounts by the Auditor General. There is a system in place whereby overspending and other deviations from the budget are queried by the Auditor General and in cases where satisfactory response is not received; the matter is referred to the Public Accounts Committee
(PAC) of Parliament. The PAC has the authority to seek explanations from the Principal Secretaries in different line ministries and also from the ministers themselves. The budget allocations to ministries are done on a quarterly basis with the aim of ensuring that the expenditure is monitored regularly. Significantly the budget itself has to be approved by the parliament. The Finance Committee of Parliament also scrutinises requests for the supplementary budget and makes recommendations to Parliament. However, the Finance Committee is chaired by the Finance Minister, which raises a conflict of interest issue. The government is in the process of developing an integrated management information system that will monitor budget spending and signal “stop” warning once the spending limits are reached. Other initiatives aimed at strengthening public financial management include (i) establishment of the Anti-Corruption Commission under the Prevention of Corruption Order of 1993, and (ii) proposed establishment of a revenue authority for increasing the income and customs and excise tax collection.

The Budget Process in Swaziland

2.1.4.0 The budget process in Swaziland is fairly elaborate. The process of budgeting can be summarised into (i) collection of estimates from each ministry (ii) consolidation and preparation of estimates of revenue and expenditure by the Planning and budgeting Committee (PBC) (iii) discussion of budget outlook paper (iv) presentation, discussion and adoption of the budget in the parliament (v) implementation of budget. The PBC comprises principal secretaries of Ministries of Finance; Economic Planning and Development; Public Service and Information; and, Public Works and Transport. The preparation phase involves review of previous budgets, the review of and agreement on new policies to be implemented, and allocation of financial resources on institutional basis by each ministry. The PBC prepares a budget outlook paper in consultation with other ministries and recommends to the cabinet a draft budget to the Parliament. The Book of Estimates is debated and approved in the parliament. Once the budget is approved, the Ministry of Finance then releases funds to each ministry based on their estimates of cash flows. Given the decentralised system of public expenditure management, Ministry of Finance delegates the authority to make payments to the Principal Secretaries in each ministry who act as the controlling officers. Ministries and departments prepare their reports on expenditure and non-tax revenue to the Finance Ministry for analysis. The external audit is done by the Auditor General who prepares his/her own report and submits this directly to the Parliament. The budget and AG’s report are fairly detailed and are generally available in the public domain.

Budgeting Framework: The Medium Term Expenditure Framework (MTEF)

2.1.41 As from 1999, public expenditure has consistently outstripped public revenue, with the result that the Government budget shifted from a fiscal surplus to a deficit. With projections showing a gloomy outlook for the future, the Government decided to introduce the Medium Term Expenditure Framework (MTEF), first on a pilot basis in 2002/03 with the primary objective of achieving fiscal stability and strengthening the link between government policies and the budget process. Its implementation is expected to enforce the principle of “living within the means” thereby ensuring that the government only spends if it has funds. Furthermore, MTEF seeks to adhere to the principal of sound macro economic management, which is essential in attracting investments and ensure future economic growth. It provides the critical assumptions used in preparation of budget and highlights the impact of any failure in adhering to the principles on the future economic growth prospects and subsequently the economic forecast.
2.1.42 In 2003/04, the rest of the ministries adopted the MTEF. The first and so far the only review of the MTEF was published in 2003/04, and concluded that the MTEF had proved useful in enhancing the budgetary process and between defining the spending priorities. Before the introduction of MTEF, the budget preparation process entailed a meeting of Principal Secretaries of Ministry of Finance and Economic Planning, Ministry of Public Services, and Ministry of Public Transport that presided over key aspects of the budget. This essentially was a top down approach of cash management as opposed to the new system of budgeting in the MTEF framework that will involve participation of all ministries in a budget forum. The new approach has also brought in greater accountability and transparency as government now first published a budget policy statement which is shared with the parliamentarians and civil society. Another important feature of MTEF is that it involves three-year strategic plans instead of ad-hoc one-year budget plans that contributed to uncertainty regarding budgetary allocations and expenditure.

2.1.43 A primary anchor to the MTEF is the introduction of an information system, MTEF budgeting software that will link all line ministries and other government agencies. While this may appear to be promising, lack of information and appropriate training is a problem. It is therefore important that capacity building and training become an integral component of the Fiscal Restructuring Project. Also, while the MTEF has been instrumental in defining the priority areas for government spending, namely, poverty reduction, unemployment and HIV/AIDS, the composition of public expenditure is yet to reflect this re-orientation. Personnel costs still account for a disproportionate share of recurrent expenditure. This suggests that for the MTEF to result in meaningful changes, civil service reforms should be introduced as a complement, as human resources constitute the largest input in the public sector. To date there is not visible complementarity between the MTEF and the Public Sector Management Programme (PSMP), except that the Ministry of Public Service and Information, who are in charge of implementing the PSMP, as sit on the Public Budgeting Committee that produces the Medium-Term Budget Policy Statement. There is also a sense in which the MTEF is considered a “project” in the sense that it is seen as part of the Fiscal Decentralisation Project funded by the EU, rather than as a fundamental reform within the Ministry of Finance and the way government manages public resources. Hence it has not been fully integrated with the Budget Section of the Ministry.

2.1.44 There are also capacity problems with forecasting revenues and expenditures, both which tend to overshoot the targets (see Table I). For example, revenue outturns in 2003/04 and 2004/05 were larger than budgeted for revenues. While the increase in revenue is a positive development as it reflects the success of government’s efforts in implementing much more effective revenue collection measures, from a budgeting perspective, consistent revenue underestimation may put unnecessary limits on the amount of resources available for spending and ensuring delivery. In addition, in Swaziland, the revenue unbudgeted for is not allocated towards the delivery of better services, but ends up reducing the deficit, which Table II shows that in the last two years, it has been lower than what was budgeted. While the reduction of the budget deficit outturn is a positive development, it is important to note that it is taking place against the background of outturns in public expenditures overshooting budgeted targets mainly as a result salary review exercises and clearing of outstanding commitments.
Table: I. MTEF Swaziland, Revenue and Expenditure Projections and Outturns

<table>
<thead>
<tr>
<th>MTEF Year</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
<th>2006/07</th>
</tr>
</thead>
<tbody>
<tr>
<td>MTEF 2002/03</td>
<td>3322.0</td>
<td>3885.0</td>
<td>3860.0</td>
<td>4390.0</td>
<td>4200.0</td>
</tr>
<tr>
<td>MTEF 2003/04</td>
<td>3681.5</td>
<td>4392.6</td>
<td>4050.5</td>
<td>4207.5</td>
<td>4454.5</td>
</tr>
<tr>
<td>MTEF 2004/5</td>
<td>4783.7</td>
<td>5382.1</td>
<td>4497.6</td>
<td>5558.5</td>
<td>4390.0</td>
</tr>
<tr>
<td>MTEF 2005/06</td>
<td>5133.0</td>
<td>5952.1</td>
<td>5982.7</td>
<td>5184.2</td>
<td>5982.7</td>
</tr>
<tr>
<td>Budget Outturn</td>
<td>3262.0</td>
<td>4018.2</td>
<td>3763.9</td>
<td>4352.1</td>
<td>4840.2</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance and Budget Estimates

Table: II Swaziland Budget Deficit Outturn 2002/03 – 2005/06

<table>
<thead>
<tr>
<th>Budget Year</th>
<th>Budget % of GDP</th>
<th>Actual Outturn % of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>4.97</td>
<td>4.76</td>
</tr>
<tr>
<td>2003-04</td>
<td>3.59</td>
<td>3.14</td>
</tr>
<tr>
<td>2004-05</td>
<td>2.12</td>
<td>3.6</td>
</tr>
<tr>
<td>2005-06</td>
<td>5.18</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance

Financial Budgeting and Control

2.1.45 The Government of Swaziland has also taken steps to strengthen the public financial accountability framework through the audit of accounts by the Auditor General and follow up of unanswered queries by the Public Accounts Committee of Parliament that has the authority to seek explanations from the concerned Principal Secretary in different line ministries and also from ministers themselves. The media and newspapers have access to the details of the proceedings of the PAC. Thus, the process ensures accountability and transparency in public financial management. In general, there is a relaxed approach in penalising the offending ministry/department if they are found guilty of budget overspending. Thus, the system fails to reward disciplined behaviour and punish the indiscipline in public financial management. However, in a move designed to introduce penalties, Parliament recently amended the Finance Management and Audit Act to empower the Ministry of Finance to surcharge public officers for mismanagement of government resources based on the recommendations of the Public Accounts Committee, to whom the Auditor General’s Report is presented and debated.

2.1.46 The Deputy Prime Minister’s (DPM) office is entrusted with the responsibility of decentralisation and coordination of service provision to lowest levels of the population. Thus, the DPM’s office has its own budgets, and those that it administers through the Tinkhundla system. The DPM’s Office controls the Regional Development Fund, from which each region is allocated E5m and decisions regarding avenues for spending this allocation are taken by the Chiefs in consultation with the MP for the region. A Community Development Officer (CDO) is appointed for each region. The CDOs bear the ultimate responsibility for ensuring proper execution of projects. Although payments are made directly to the suppliers, there are some grey areas in terms of accountability for use of public funds. Although payments are made directly to the suppliers, there are some grey areas in terms of accountability for use of public funds. The DPM’s office prepares its own detailed budget performance report that outlines the projects for which funds were used and progress that has been achieved. The government has approved a decentralisation policy that seeks to improve governance, accountability and transparency in the utilisation of public funds.
2.1.47 The Government uses the IMF benchmarks to monitor budget deficits, inflation, GDP growth and government borrowings. There are some serious challenges posed by increasing government expenditure that is not matched by the increase in revenue. The government has been spending funds to implement huge infrastructural projects such as Maguga dam, road network and the millennium projects. As a consequence, expenditure has continued to grow at an average of 50 percent, much faster than the 12 percent growth in revenue per year. For 2004/05, capital expenditure excluding net lending was budgeted at E1,296.2m, 26 percent higher than the capital expenditure of E1,028.9m during 2003/04. During 2003/04, the government overlooked the agreed policy of zero real growth because the three infrastructural projects, i.e., roads, urban development, and constitutional review exercise absorbed about E470m. Remarkably, though over the last five years capital expenditure programme has more than doubled, it is still less than third of the recurrent expenditure. Moreover, the current fiscal crisis posed by the need for effective government interventions in controlling HIV/AIDS pandemic and the drought weather conditions have adversely affected government finances and the future economic growth prospects.

**Issues and challenges in budget accountability**

2.1.48 The key issues relate to the relatively relaxed approach in penalizing the expenditure overruns and a general lack of fiscal discipline. Also, the differences between budgeted tax collections and actual tax collections raise concerns about possible governance issues in collection of taxes as well as accountability issues in preparation of budget. Over the past 5 years, revenue collected grew at an average of about 8 percent per annum, barely keeping pace with inflation. During the year 2003/04, there was an under-collection of E65.18m from taxes on goods and services, but over collection on income tax and SACU revenues. However, it is estimated that a significant amount of customs duty is lost because not all imports into the country are checked due to lack of availability of trained staff. However, the MoF has proposed unification of revenue authorities by setting up a new Revenue Authority that will combine the Department of Taxes and Department of Customs and Excise together for improved revenue collection. It is expected that the new revenue authority will have greater autonomy in regulating the tax collection process.

2.1.49 The Income Tax Order (2003) authorizes the government to collect taxes on incomes generated by businesses and individuals. In the 2004 Article IV Consultations Report, the IMF had advised the government to broaden the tax base to compensate for the decline in Southern African Customs Union (SACU) trade taxes. Though, in 2004/05 SACU receipts are expected to increase to E2.066bn registering an increase of 10% over 2003/04, these receipts will start to decline by between 10% and 15% by 2006/07 because of the expected reduction in the SACU revenue pool as the implementation of the EU/RSA Free Trade Area reaches its next stage. The Finance Ministry aims to broaden the tax base by introducing Value Added Taxes (VAT) in 2006/07, and for this purpose, the government is seeking expert consultancy advice. There is probably a need for an Anti-Avoidance Bill that would permit the government to take legal action against companies/people found engaged in evading taxes. Although, the government recognises the need to decentralise the income tax collection process, currently there is no formal proposal to implement this.
2.1.50 The health care system in Swaziland is facing serious challenges with adverse budget implications. Of particular concern is the HIV/AIDS pandemic. The effects of HIV/AIDS are being felt in every sector of society and the economy. The 2003 government projections suggest that the number of orphaned children because of HIV/AIDS is estimated to be approximately 60,000. This number is projected to rise by an average 10,000 per year. HIV/AIDS prevalence rate amongst 15-49 year olds has increased ten fold rising to 38.6 percent in 2002 from 3.9 percent in 1992. It is projected that by 2009, death caused by this pandemic would rise to 24,000 per year. The extremely high HIV infection and attrition rates are adversely affecting productivity and performance and threaten the future availability of human resources. HIV/AIDS is also adversely affecting the budget accountability because it is undermining the growth prospects through declining productivity and quality of service due to increased illness and absenteeism amongst those in the most economically productive age group. On the fiscal side, the HIV/AIDS problem will lead to declining government revenues with additional demands placed on pension funds in the medium-term. The government has set aside a provision of E334m for 2004/05 representing a 5 percent growth on the revised sector allocation of E320m in 2003/04.

2.1.51 As a result of the drought, the agriculture sector recorded poor performance last year and its contribution to the GDP fell to 8.5 percent in 2003 from 8.8 percent recorded in 2002. The productivity has been low as well with output on Swazi National Land (SNL) shrinking by 19.6 percent in 2003, compared to 3 percent in 2002. Free distribution of maize and rice under the food aid programme also adversely impacted on prices and production. The cotton production also suffered due to lack of finance and many farmers switching to more lucrative crops such as sugar cane. The poor performance in the agriculture sector has exacerbated unemployment and poverty problems particularly in the rural areas of the country. The production of local cattle for quality export of beef remains a challenge for Swaziland, which has persistently failed to fulfil its quota of 3,363 tonnes of boneless hindquarter beef to the European Union (EU). During 2003/04, beef production was 9,023 metric tonnes. Lack of rain has adversely impacted on the agriculture productivity and major water users such as Sugar and Citrus have been asked to ration water usage.

2.1.52 The budget deficit continues to grow year on year and is projected at 4.5 percent of GDP in 2005/06, from 3.6 percent of GDP in 2004/05. The deficit is mainly attributed to limited revenue growth and increase in government recurrent and capital expenditure. For example, the recurrent expenditure has grown by an average 12 percent per annum over the past five years. Personnel costs have grown even faster and now are estimated to account for about 63 percent of recurrent budget. Subventions to public enterprises and substantial deficit of over E100m incurred by the Central Transport Authority (CTA) have also significantly contributed to the growth in the recurrent expenditure. Capital expenditure has also more than doubled in the last five years. However, capital expenditure is less than one-third of recurrent expenditure. In 2003/04, capital expenditure was concentrated on road infrastructure development (27.8%), general public services (27.6%) and housing and community amenities (15.3%). This fiscal indiscipline has had serious budgetary implications, especially for addressing the problems posed by the HIV/AIDS pandemic and high unemployment.
2.1.53 Thus, one of the most critical issues for the Government is the financing of the budget deficit. In the last two years, it has been financed by draw down of government deposits with the Reserve Bank of South Africa and by drawing down funds from Capital Investment Facility (CIF). Financing of budget deficits by running down deposits and reserves has led to depletion of currency reserves, which are just enough to cover three months of imports. If the government continues to finance budget deficits by drawing down reserves, this may threaten the Rand-Lilangeni currency peg.

Monetary Policy Formulations

2.1.54 The Central Bank of Swaziland Act (1974), amended in 2004, provides a legislative framework for formulation and implementation of monetary policy, regulation of foreign exchange transactions, supervision of banks, credit institutions and other financial institutions, and authorises the bank to formulate and implement monetary policy. However, as a member of the Common Monetary Area (CMA), Swaziland does not have an independent monetary and exchange rate policy and continues to rely on South Africa as its largest trading partner. Furthermore, as from September 2003, the Rand has become a legal tender in Swaziland. Alignment of its monetary policy to that of South Africa’s allows Swaziland to solve signalling problem and ensure financial discipline as the country is able to ride on the credibility of the policy decisions of the South African Reserve Bank. It is therefore not surprising that inflation and interest rates movements in Swaziland closely track the rates in South Africa.

2.1.55 In August 2004, the Central Bank of Swaziland (CBS) cut its interest rates by 50 basis point following similar reduction made by the South African Reserve Bank. Inflation in Swaziland has steadily declined in line with the trends in South Africa, falling from 11.2 percent in January 2003 to 4.6 percent in December 2003 and 3.4 percent in December 2004. Meanwhile, the Lilangeni appreciated by 25.2 percent against the US dollar, by 19.1 percent against the British Pound, and by 13.6 percent against the Euro. This implied that dollar denominated imports were 25 percent cheaper. The appreciation of Lilangeni has adversely affected on the competitiveness of local firms and as a consequence export growth has been limited to only 8 percent reaching E11,821.8m. On the other hand, imports increased by 14.6 percent partially due to increase in fuel prices. There have been calls for accelerating repayment of foreign debt taking advantage of continued appreciation of Lilangeni exchange rate.

Foreign Direct Investments

2.1.56 The Government acknowledges the importance of attracting Foreign Direct Investment (FDI) and is reviewing the current incentive arrangements. Swaziland Investment Promotion Authority (SIPA) actively promotes Swaziland as an attractive destination to international companies by providing them with one stop advisory service. SIPA’s objective is to attract, encourage, facilitate and promote local and foreign investment in Swaziland. SIPA initiates, coordinates and facilitates the implementation of government policies on investments and investment incentives. Swaziland Industrial Development Corporation (SIDC) and Tibiyo TakaNgwane also play a role in attracting new investment to Swaziland and whilst, at the same time supporting many existing businesses. The Small Enterprise Development Company (SEDCO) on the other hand is mandated with promoting rapid industrial growth and development of small
enterprises in order to raise domestic income and create employment opportunities. However, balanced regional industrialisation of Swaziland remains a challenge. Under the current system, it is time consuming and costly to obtain a business licence, and may at times take up to 30 days. Suitable urgent reforms of this practice should be one of the top priorities for the government.

2.1.57 During the period between 2001 and 2003, total FDI averaged 37 percent of GDP. For 2003 alone, total FDI declined by 8.6 percentage points to E4,585m, equivalent to 31.2 percent of GDP from 39.8 percent of GDP in 2002. Only the Long term Capital, mainly comprising long-term loans increased by 19.6 percent to E655.6m in 2003. Due to the uncertain political and economic situation that prevailed during 2003, the local companies did not receive the short term debts from offshore banks thus forcing them to rely on inter-company loans. Stock of short term capital shrank to E746.1m in 2003 from E1,201.1m in 2002. Moreover, closure of some companies led to reduction in Equity stock in 2003. Sectoral breakdown of FDI suggests that the manufacturing sector remained the largest contributor to total FDI in 2003. Stock of most sectors registered a fall during 2003 except for the FDI flows into finance sector, which increased by 3 percent mainly due to reinvestments by Standard Bank into ATMs and introduction of electronic/internet banking by FNB.

2.1.58 The reinstatement of the rule of law and independence of judiciary are critical for regaining investor’s confidence. Existing investments, particularly in the Textile sector are also adversely affected by the possible loss of African Growth and Opportunity Act (AGOA) II benefits. However, the recent initiatives shown by the current government with the recent reinstatement of rule of law and withdrawal of the November 28, 2002 statement by the previous Prime Minister is expected to help in restoring investor’s confidence and creating a favourable environment for foreign investments in Swaziland.

Public and Private Accounting and financial reporting

2.1.59 The Finance and Audit Act (1967) provides a framework for regulating the accounting and auditing of public accounts whilst the Audit Bill (1998) provides for appointment, functions and responsibilities of the Auditor General in Swaziland. It is worth noting that the Audit Bill was prepared in 1998 and is still in the process of enactment. The Auditor General is vested with the authority to audit public accounts of the Government. The current arrangement regarding the appointment of the Auditor General is retained under the new draft constitution. The King, acting on the advice of the Finance Minister and the recommendation of Civil Service Commission, appoints the Auditor General.

2.1.60 The government accounts are prepared on “cash basis” and all revenues received by the government is deposited in the Consolidation Fund. Payments from this fund are done through the appropriations by the Parliament. The Auditor General is required to audit public accounts of all government offices, courts and authorities of the government of Swaziland and submit a report to the Minister of Finance. The scope of audit covers revenue collections, authorisation of expenditure in terms of the Appropriations Act, performance of capital projects and expenditures, the treasury, Swazi National Trust Commission and some foreign missions. The audit process has to comply with regulations as laid down in the Audit Act and to examine whether the public funds were utilised for the intended purpose efficiently and effectively. The
audit is expected to highlight irregularities and areas of poor accountability in administration of public resources. However, it is noted that PEs are not audited by the Auditor General, which is done by private auditors. The constitution gives the office of the Auditor General powers to review expenditures of public enterprises as well, but is constrained by lack of resources. Ideally, public enterprises that benefit from Government subventions should be audited by the Auditor General.

2.1.61 According to an IMF study on experimental Reports on Observance of Standards and Codes (ROSCs), 2000, Swaziland uses International Accounting Standards (IAS) that is modified to suit the local conditions. Section 4.11 of the Listing Requirements of the Swaziland Stock Exchange also requires companies wishing to list their stock to prepare their accounts in accordance with the IAS or GAAP standards. IASs are considered useful for countries that do not have a national standard setting body or the resources to undertake the full process of preparing accounting standards.

2.1.62 There are serious challenges in terms of increasing the effectiveness of accounting and auditing process and complete harmonisation of accounting practices with the internationally accepted accounting standards. Moreover, Auditor General’s 2003 report indicates that the audit staff complement of 27 has not changed for the past 20 years whilst the scope of audit work has expanded considerably over these years. Apart from the shortage in staff, lack of a national accounting and auditing standards body and training facilities in Swaziland has also added to the difficulties to ensure comprehensive accounting and audit of Public and Private sector accounts. There is thus a considerable scope for capacity building in this critical area. However, it is worth noting that Swaziland government’s accounts are generally up to date. For example the government accounts and Auditor General’s Report for 2004 was tabled to Parliament together with the 2005/06 Budget Statement.

Banking Sector Solvency

2.1.63 Banks play an important role in the overall development of the country. The performance of the banking sector is critical for the economy of Swaziland, which is in the process of economic transition. There are four banks operating in Swaziland, three commercial banks, one development bank and one building society. The three banks are majority owned by banks based in the Republic of South Africa. Two of the commercial banks have minority Swazi Government participation. The commercial banks are licensed in terms of the Financial Institutions (Consolidation) Order, 1975 whilst the Swaziland Development and Savings Bank (SDSB) was established under the terms of the Swaziland Development and Savings Bank Order (1973). SDSB is wholly owned by the GoS, and the Swazi Government guarantees its deposits. Housing finance needs in Swaziland are mainly provided by the building society, which is registered in terms of the Building Societies Act (1962).

2.1.64 During the quarter ending June 2003, the total assets, total loans and advances, and total deposits in the banking industry were E3.4bn, E2.0bn, and E2.6bn respectively. The banks in Swaziland are characterized by large exposures to the agriculture and forestry industry with a high concentration in the sugar industry. At the end of July 2003, a total loan of E883m was approved for the sugar industry, which translates to 80.3% of the combined bank capital and
reserves. Loans and advances of the banking system classified by type reflected an annual growth of 52.5 percent on agriculture and forestry to E357.2 million as at December 2002 compared to 23.6 percent recorded the previous year. Loans to the manufacturing sector recorded a growth of 7.8 percent to E297 million against a decline of 26.7 percent observed in 2001.

2.1.65 The regulatory framework for banks is provided in the Central Bank Act (1974) as amended in 2004 under which the Central Bank has the statutory responsibility of supervising the financial institutions licensed under the Financial Institutions (Consolidation) Order, 1975 and Swaziland Building Societies Act 1962. The supervisory framework is anchored on off-site and on-site supervision. The off-site supervisory activities monitor the financial condition of individual institutions and the banking industry as a whole on a continuous basis. It also determines compliance of licensed financial institutions with the statutory regulatory requirements. With the off-site monitoring tool, the objectives are accomplished through the submission of statutory returns to the Central bank by the financial institutions. The returns are received and analysed using prudent ratios or financial indicators such as liquidity ratio, capital adequacy ratio, loans to deposit ratio, etc. to determine the bank’s financial conditions and their compliance with statutory and regulatory requirements.

2.1.66 All banks in Swaziland are required maintain a level of capital relative to the size and nature of bank’s assets. The Central Bank requires each bank to maintain capital adequacy ratio of 8 percent in relation to its credit risk. The Central Bank may require higher levels of capital adequacy ratio, if it deems this to be justified. As at end December 2004, the average risk-weighted capital adequacy ratio for the banking system stood at 16.4%, compared to the required minimum ratio of 8.0%. In December 2004, banks liquidity held to total liability for which liquidity is required, at average, stood at 16.2% against the statutory requirement of 13%. All banks in Swaziland are required by law to make provisions for bad and doubtful debts. However, there is no deposit insurance scheme for banks to avoid losses that may occur on account of non-repayment of loans.

2.1.67 In contrast to the experience in other developing countries, Swaziland has excess liquidity in the banking sector. The reasons for the excess liquidity seem to be lack of investment opportunities within Swaziland because of slower economic growth. According to the World Bank report (2002) on Swaziland, the economy needs to grow by 5 percent per annum. However, the economy has experienced declining growth rates from 4 percent in 1997 to 2.1 percent in 2004. Moreover, banks are not generally allowed to invest more than 25 percent of their capital in a single investment project. In a small developing country like Swaziland, this places significant constraints on the funding of larger infrastructure and development projects. However, the Lending Limit, Aggregation and Attribution Regulations, 2001 allows for banks that would want to lend more than the 25 percent of their total capital and reserves, with the excess funds coming from the major shareholder or in loan participation agreements with other banks. In Swaziland, banks are also allowed to use guarantees as an additional cover against credit risk on large lending in excess of 25 percent of their capital and reserves, but for these to be recognized guarantee must be in irrevocable and unconditional and must be issued by a non-affiliated financial institution. This suggests that, parental guarantees are not acceptable and/or relied upon, as they are from an affiliated financial institution.
2.1.68 Basle II, though not yet implemented in Swaziland, not only allows the use of guarantees in the credit risk mitigation techniques, but also contemplates the use of credit derivatives. Credit derivatives include swap, forward and option contracts that transfer risk and return from one counterpart to another without actually transferring the ownership of the underlying assets. Credit derivatives are an ideal tool for lenders who want to reduce their exposure to a particular borrower but for tax or cost reasons unwilling to sell outright their claims on that borrower. Default swaps transfer the potential loss on a “reference asset” that can result from specific credit “events” such as default, bankruptcy, insolvency, and credit-rating downgrades.

2.1.69 The stock market in Swaziland is still in the infancy stage and has been struggling to build up sufficient market capitalization and liquidity. Very few companies are listed and actively traded. The Royal Swaziland Sugar Corporation (RSSC) listed in September 1992 alone accounts for 84 percent of the total market capitalization. For reasons discussed above, banks invest their excess liquidity in government bills and in the South African financial market.

Corporate Governance

2.1.70 Corporate Governance refers to the system by which corporations are directed, controlled and held accountable in managing assets and resources with the aim of maintaining and increasing shareholder value. The central idea is to create an environment in which managers are made accountable for maintaining a balance between organizational objectives and interests of various stakeholders. Good corporate governance is necessary at both micro (firm level) and macro (political and economic governance level). Evidence suggests that deficiencies in corporate governance practices have caused financial crisis at the expense of lenders, investors, and customers. Corporate governance at macro level requires adequate laws and regulations, independent judicial system, efficiency of legal and regulatory process, responsible management of economy and public finance, etc. Corporate governance at the micro level concentrates on how individual corporations are managed. Good corporate governance seeks to promote welfare of the society by creating employment and wealth, ensure integrity and transparency in a corporation’s affairs, recognize and protect stakeholder rights, and ensure adequate representation and participation of various stakeholders. Good governance is necessary in attracting capital required for investments and in utilization of funds in an efficient and responsible manner to ensure economic growth and development.

2.1.71 The Organisation for Economic Co-operation and Development (OECD) Principles of Corporate Governance 2004 have become an international benchmark for policy makers, investors, corporations and other stakeholders worldwide. The principles provide specific guidance for legislative and regulatory initiatives in both OECD and non-OECD countries. The Financial Stability Forum has designated the Principles as one of the key standards for sound financial systems because it is increasingly recognised that corporate governance is one key element in improving economic efficiency and growth. The Principles emphasise that corporate governance should promote transparent and efficient markets, be consistent with rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities. The Principles further stress that the corporate governance framework should protect and facilitate the exercise of shareholders’ rights. The corporate governance framework is also expected to ensure timely and accurate disclosure on all matters regarding the corporation, its financial situation, performance, ownership, and governance of the company.
2.1.72 To ensure an effective corporate governance framework, it is necessary that an appropriate and effective legal, regulatory and institutional foundation is established upon which all market participants can rely. At present, there is no enabling legislative framework for ensuring good corporate governance practices in Swaziland. Although, there are several Acts of Parliament which taken together would constitute the legal framework for private sector development in Swaziland, government needs to initiate steps in improving and strengthening the corporate governance environment. The existing Companies Act of 1912 is old and outdated despite various amendments made to the Act over the years. Although, the Office of the Registrar of Companies exists on paper, there is no evidence that suggests that activities of the boards of public and private corporations are being effectively scrutinised. For example, with regards to parastatals, the Economic Review and Outlook 2002/03-2006/07 laments the fact that “government, as owner of the business does not fulfil its obligations in terms of controlling the performance of parastatals and assessing the cost-effectiveness of their activities.” (p.52). It is also not clear how private sector firms are monitored in terms of their governance, accountability of the board and ensuring transparency in their decision-making. There is no evidence on how shareholders’ rights are protected and whether or not corporations comply with timely and adequate disclosure about their ownership and financial performance. The overall situation suggests that Swaziland government has a long way to go in complying with the OECD Principles of Corporate Governance.

2.1.73 The proposed new Companies Bill 2004 spells out detailed regulations for incorporation and conduct of companies as well as operationalising the office of the “Registrar of Companies” that will be responsible for the administration of Companies Act. The Registrar and his staff will be appointed in accordance with the Civil Service Order, 1973. The new companies bill distinguishes between private and public companies and clearly defines the terms in relation to returns companies will be expected to submit to the Registrar of Companies. Amongst others, the Registrar will be responsible for (i) taking charge of and be responsible for the safe custody of all documents lodged with him/her under the Act (ii) examining and registering all returns and other documents lodged with him/her, (iii) registering any alteration in the share capital of a company provided that such alterations are in accordance with the act, (iv) registering amendments to the memorandum and articles of association of any company.

2.1.74 Although the government is in the process of enacting the Companies Act that is expected to address a wide range of micro and macro level corporate governance issues, there is no evidence to suggest that either the private or the public enterprises are managed in a transparent and accountable manner. Structural weaknesses in institutions, lack of regulatory policies and poor supervision may prove to be very expensive in the long run despite good macroeconomic management. Good corporate governance requires the enforcement of bankruptcy laws, the use of internationally acceptable accounting and auditing standards and the existence of independent auditors and regulators. Apart from these, availability of finance providers and the strength of the accountancy profession also influence the development of accounting practices. This is one of the important areas for capacity building in improving the corporate governance practices in Swaziland.
2.2  Transparency

The Legal Framework for Transparency

2.2.1 There is no specific legal framework for promoting transparency in government operations that guarantees the right of access to information. Hence, there is no legal obligation on the government to provide public access to information. Although there is a relatively open environment for the public and the media to seek information from the government officials and ministers, they are not under obligation to do so. The media and press are free to report the matters of public interest and there is no evidence that suggests any political interference. However, the absence of a national media representation is adversely affecting the professional development, fellowship and development of code of ethics in the matters of reporting. Although there is growing awareness to tackle all issues of public interest such as legal, judicial, economic, financial, health, and gender, the absence of a legislative framework and coordination amongst the media and press has hampered the development of specialisation in investigative, economic and financial journalism. On its part, the government has taken the positive step of appointing Press Secretaries in the offices of the Prime Minister and the King to serve as a communication links between the government and the public.

Public access to information

2.2.2 The extent of public access to government’s policies and strategies is not very good and there is still an aura of secrecy surrounding public access to information from ministries and departments. Although under the Ministry of Public Services and Information, a new Broadcasting and Information Services Department has been set up, public access to government affairs needs to further improve. There are also however, specific cases of unrestricted media access to public information, especially from parliament. Evidently, there is a demonstrated commitment to open up public access to government information in line with the renewed commitment to transparency. Although there is no formal Act on the freedom of press and access to information, media and press operate without restriction and have freedom to report matters of public interest. The government also provides for free access to its accounts and budget documents if requested by the public. Some Members of Parliament (MP) regularly visit their constituencies thereby providing opportunities to share and exchange information on public policy matters.

Public expenditure review

2.2.3 Public expenditure reviews are critical in ensuring accountability and transparency in public expenditure allocations and budgetary provisions. Public expenditure reviews enables the government in evaluation of budget performance, review effectiveness of public expenditure, identify budget constraints and form guidelines for future budgetary exercises.

2.2.4 The Government of Swaziland has a number of measures to review and monitor the public expenditure. For example, each year, the DPM’s office prepares a Budget Performance Report that reviews expenditure incurred on various government projects in the rural regions. The report is detailed and provides a performance appraisal of each project and comments on the
effectiveness of the government's development programme. There are a number of other Parliamentary Committees such as the Public Accounts Committee, The Finance Committee, Assurance Committee, etc. which also review and monitor the public expenditure vis-à-vis budget allocations. The government has initiated steps to institutionalize public expenditure review process by integrating it with the MTEF budget process. It is hoped that this will help the budget formulation and evaluation process in Swaziland.

2.2.5 Public enterprises are required under the Public Enterprises (Control and Monitoring) Act, 1989, to submit quarterly as well as annual reports on their financial and operational performance to the Public Enterprise Unit (PEU) in the Finance Ministry. The PEU consolidates these reports and sends them to the Cabinet Standing Committee on Public Enterprises (SCOPE) for approval. Compliance with this requirement by public enterprises to submit their reports on time is high, and failure to submit the required report on time without any explanation constitutes a violation of Section 7 of the PEU Act. Public Enterprises that flout this Section can be referred to the Disciplinary Tribunal, which is empowered to impose some penalties. There are two areas of concern. First, it would appear that there is no mechanism for taking action against public enterprises that either fail to meet their targets or exceed the budgeted expenditure. The PEU merely draws the attention of individual ministries and SCOPE to instances of poor performance, with suggestions on how they should be addressed. Second, although the Report of the PEU is readily available to the public and the media, it does not appear to have a wide distribution.

Budget Transparency

2.2.6 There is an Office of the Auditor General that is vested with the authority to audit public accounts of the Government of Swaziland. The current arrangement regarding the appointment of the Auditor General is retained under the new draft constitution. The King acting on the advice of the Finance Minister and recommendation of Civil Service Board appoints the Auditor General. Under section 18(i) of the Finance Management and Audit Act 1967, the Auditor General is entrusted with task of audit and preparation of government accounts within eight months of the close of financial year. The Auditor General is responsible for auditing and reporting on the public accounts of Swaziland and the accounts of public authorities and bodies as may be prescribed by the proposed draft constitution. Each ministry has its own internal control and audit arrangements. However, these arrangements are not always transparent.

2.2.7 Greater transparency has been introduced into the budget formulation process, and in the preparation of the 2005/06 Budget, a much broader consultation process with key stakeholders was undertaken. The authorities released the Budget Policy Statement for discussion with key stakeholders and to inform them on the policies that guide resource allocation and spending in the medium term. In addition, the Ministry of Finance organised a pre-budget workshop for parliamentarians to discuss existing national and budget priorities. Further, the Budget is extensively debated and scrutinised by Parliament and openly reported on by the media. It is also readily available to the public. However, capacity problems still persist in ensuring greater transparency with regard to budget formulation. Due to technical, financial and capacity constraints, a transformation from the old budgeting system to a full MTEF is yet to be completed, and Government does not regularly publish Medium Term Budget and Public Expenditure Reviews, which are critical in ensuring transparency in public expenditure
allocations and budgetary provisions. The budget process also suffers from oversight weaknesses, including a weak monitoring and evaluation system, inadequate resource allocation for oversight activities, and the lack of effective participation by the key stakeholders.

2.2.8 To enhance fiscal transparency, the Government of Swaziland should follow the IMF Fiscal Transparency Code for improving and evaluating the budget process. In particular, the government should make efforts to increase stakeholders’ participation in formulation and resource allocation for various developmental projects. Before the 2005/06 budget stakeholders did not play any role in the budget preparation. Moreover, there is a lack of a legal framework that would have obliged the government to ensure participation by civil society and the private sector. It is recommended that the government should develop a suitable legal framework to ensure that the stakeholders’ views are taken into consideration in the budgetary process.

2.2.9 Public enterprises are required under the Public Enterprises (Control and Monitoring) Act, 1989, to submit quarterly as well as annual reports on their financial and operational performance to the Public Enterprise Unit (PEU) in the Finance Ministry. The PEU consolidates these reports and sends them to the Cabinet Standing Committee on Public Enterprises (SCOPE) for approval. Compliance with this requirement by public enterprises to submit their reports on time is high, and failure to submit the required report on time without any explanation constitutes a violation of Section 7 of the PEU Act. Public Enterprises that flout this Section can be referred to the Disciplinary Tribunal, which is empowered to impose some penalties. The mission noted two concerns. First, it would appear that there is no mechanism for taking action against public enterprises that either fail to meet their targets or exceed the budgeted expenditure. The PEU draws individual ministries and SCOPE’s attention to instances of poor performance, with suggestions on how they should be addressed. Second, although the Report of the PEU is readily available to the public and the media, it does not appear to have a wide distribution.

**Transparency in the procurement Process**

2.2.10 Deficiency in public procurement is a major contributor to corruption in Swaziland. The controversies surrounding procurements, for instance that related to the disposal of the Fokker 28, have raised critical procurement questions. Yet, there is currently no procurement law that provides a guiding policy framework for government procurement, leaving the process of tendering and supply of goods and services at risk to potential arbitrariness. Public procurement is governed by the outdated Stores Regulation 1975, last amended in 1992 and Section 6 of the 1993 Financial Management and Accounting Procedures Manual that deals with Procurement and Stores. There is no other law regulating public procurement. In the absence of such a law, procurement entities have tended to adopt varying procedures relating to advertisement, specifying the eligibility and qualification criteria, tendering period, opening of tenders, correction of arithmetical errors, etc.

2.2.11 There is no independent entity to provide oversight of policy related responsibilities of Public Procurement functions including policy formulations. The Accountant General assisted by the Controller of Stores and the Treasury and Central tender Board is charged with this responsibility. The Accountant General provides procurement implementation support including being on the Tender Boards.
2.2.12 Following from above, a number of glaring weaknesses have emerged in the procurement process including that the Sources of Supply have different rates (varying up to an extent of 100 percent) for the same item and does not indicate the brand names for the items. To this end, the entire procedure for preparation of Sources of Supply and tendering for goods, works and services needs review and revamping to make the system efficient, fool proof, transparent and instil confidence of the public and business community. Of course, this must be supported by the enactment of the appropriate procurement law by parliament to substantially improve transparency, reduce abuses and misuses and bring in accountability. In the interim, the present system where procurement of goods beyond a threshold amount is referred to parliament should be encouraged.

2.2.13 In 2003, the Bank financed a Country Procurement Assessment Report at the request of the Government of the Kingdom of Swaziland to review procurement procedures and make proposals for improving the system. The Report found that within the public sector, there was insufficient capacity to undertake public procurement in an efficient and transparent manner. This problem was exacerbated by the absence a proper legal framework and use of outdated procurement rules and regulations, resulting in low confidence in public procurement. The Report made a number of recommendations, which include among others, the need for Parliament to enact a **Public Procurement Law**; to establish a small, but professionally staffed and independent **Procurement Regulatory Agency**; to standardise and mandate Tender documents for use by all procurement entities; and, to build capacity in procurement. As a result, a draft Procurement Bill has been submitted to the Cabinet for approval and onward transmission to Parliament.

2.3 **Stakeholders’ Participation**

2.3.1 In Swaziland, there are efforts to create an environment to facilitate the process of consultation and participation in the policy making process and for all stakeholders to have a say in the development agenda of the country.

**Participation of beneficiaries and affected groups**

*Decentralisation*

2.3.2 Although decentralisation has been a part of Government policy since King Sobhuza II first inscribed it on the national agenda, its application has proceeded at a snail-like pace. Nevertheless, decentralisation remains a firm Government policy objective. The Urban Government Policy of February 1996 and other subsequent policy documents, including the NDS, are clear indications of the continuing commitment to decentralisation although there is no stand-alone government policy on decentralisation.

2.3.3 The **Tinkhundla** System of Governance is at the heart of the government’s decentralisation agenda. It is a non-partisan system that blends the Swazi traditional system with the modern Westminster system. At the base of the system are the communities in their respective chiefdoms, a cluster of which form an **Inkhundla**. One of its major objectives is to
decentralize power and government administration to an extent that the delivery of services is both assured and efficient. It is intended to ensure that adequate structures are developed to allow a lot more people to participate in local governance. The concept is a home-grown and is deeply rooted in the culture and traditions of the Swazi people, which rely on chiefs as community development leaders. It also has a strong rural focus, an important consideration in a country where up to 67 percent of the population resides in rural areas. To a large extent, the system contains within itself mechanisms for consultation and participation, though in practice, this may not be always guaranteed.

2.3.4 The Tinkhundla system has been criticised however, for being undemocratic since it is, rightly or wrongly, linked to the absence of political parties, which many equate with democracy and good governance. While also the Tinkhundla may have a lot of structures at the local level to ensure decentralisation and participation in the policy making process, it appears that some of the institutions and structures within this system are not clear of their appropriate roles and responsibilities. This is mostly because the traditional systems rely to a large extent on un-written rules of conduct and responsibilities. Additionally, the local structures lack the capacity, in terms of material and human resources to deliver. For example, Regional Development Fund set up to disburse regional allocation of funds does not have any proper allocation mechanism for the disbursement of funds to the regions. It is encouraging, however, to note that something is being done to remedy this. Guidelines are being developed on how these funds should be disbursed and who will be accountable for these disbursements. The merger of traditional and modern systems like this has created some gray areas that will need to be clarified. This is possible under a clear policy of decentralisation. Unfortunately, Swaziland does not have a clear policy on decentralisation. It is in the process of developing one. To this end, it is important that an appropriate entrenchment of decentralisation in the new constitution be effected as a basis for policy and action. Following a choice of a decentralisation design appropriate for Swaziland’s size and resources has to be made. Once that choice is made, the next step should be the preparation of a new Local Government Act incorporating the details of a decentralised local government system. Evidently, the UNDP is already helping in capacity building in this matter.

2.3.5 Under the current dispensation, progress is being made towards creating an environment to facilitate the process of consultation and participation in the policy making process and for all stakeholders to have a say in the development agenda of the country. In May 2005, the Cabinet approved the Decentralisation Policy whose main purpose is to provide an enabling environment for promoting and enhancing sustainable and participatory local and national economic, political and social development within a decentralised governance framework. The policy envisages three levels of decentralisation, namely, regional level; the Inkhundla level and Urban Government; and, the Chiefdom level. The next challenge will be at the implementation stage, given existing institutional, resource and capacity constraints.

Civil Society organisations: NGOs, CSOs

2.3.6 Civil society organisations fulfil an important role in representing the voices of civil society and it is important that an enabling environment be created for their existence. However, this has not been the case in Swaziland as their existence and operations are constrained by the non-existence of legislation and policy framework. There is a draft bill pertaining to CSOs and NGOs
but it has not moved forward from the time there was the agreement on it. Because of the legislative and policy gap, NGOs in Swaziland have tended to operate in an unrecognised manner, meaning that institutionalised avenues for their participation in public policy process and service delivery is virtually non-existent. There is no mechanism for registration of these organizations most of which have resorted to legalising themselves by registering as non-profit making businesses. This, however, is restraining, as it does not allow for good governance. It is amazing that in a country where majority of its citizens are farmers there are very few NGOs which focus on farmers. As a result, the voice of farmers and their needs and aspirations is not adequately reflective of their desires.

2.3.7 Notwithstanding the difficulties, Swaziland has a vibrant, though small civil society, with most NGOs operating under the ambit of the umbrella organisation, the Coordinating Assembly of Non-governmental Organizations (CANGO) functioning in Swaziland. CANGO has been operating since 1987 and has presently about 70 membership organizations. Among other things, it helps coordinate capacity building for its members; facilitate interaction and sharing of knowledge among the members; serves as conduit for information gathering and dissemination; and presents a collective channel for policy influence. Essentially, CANGO’s main objective is to act as a liaison between member organizations and relevant government ministries, and promote general cooperation and understanding between government and NGOs concerned. Through CANGO’s efforts, the government now invites NGOs input into major policy decisions. To this effect, there has been an improved NGO and government cooperation at different levels and on different issues. While this may be the case, it is important that steps are taken to institutionalised mechanisms for civil society participation in the policy making process.

**Gender Issues**

2.3.8 In Swaziland where women constitute the majority of the population, their level of participation in governance and generally in decision-making is low compared to men. In both the Swazi Law and Custom and the Roman Dutch Law systems women are considered as minors. The inability of women to take part in decision making and policy planning to influence laws and policies affecting their socio-economic standing has been a direct result of their minority status. And, such minority status has debilitated any opportunities for women’s empowerment and advancement. But even though women are not able to open bank accounts, own property or land, and are forced to do so via adult men, they feature strongly in the business community. Many access land or assets through male relatives, obtain land from traditional authorities or through cooperatives.

2.3.9 The Government has recently demonstrated a stronger commitment towards gender equity and in line with the CEDAW, which has been ratified, has established a fully operational Gender Unit in the Ministry of Home Affairs to facilitate the mainstreaming of gender concerns in all development tasks. Further, the Prime Minister in the Transformation Policy Statement (September 2004) stated that the government would further promote the participation of women in development. The government has also committed itself to having 30 per cent of all positions in political and decision-making structures to be occupied by women by 2005 in consonance with SADC Declaration on Gender of 1997. Women now comprise about 18 per cent of Swaziland’s legislature, following the King’s appointments of new MPs and Senators. These
positions are earmarked for women by the King to bridge the gender gap in parliament. According to the 2004 Human Development Report with respect to the gender-related development index (GDI), Swaziland is ranked 109 out of 144 countries. Women account for 24.1 per cent of female administrators and managers and 61.2 per cent of professional and technical workers (see Table III below).

2.3.10 However, while the draft Constitution allows for the Rights and Freedoms of the Women and their equality before the law, it also declares customs and traditions inviolable. This will mean that gender equity will remain a matter of “modern life” only if traditional authorities so wish. Changes to the status of women as perpetual minors can be implemented only if existing laws like the Marriage Act, Swazi law and custom, Deed Registration Act, Administration of Estate Act, inheritance laws etc. are adjusted to allow for gender equity. Ultimately even though gender equity might be enshrined in the draft Constitution, the King as head of the traditional authorities, also has the right to reverse or suspend constitutional provisions, if he considers this to be in the interests of the nation, gender equity among them.

Table: III. Comparative Gender Mainstreaming in Swaziland

<table>
<thead>
<tr>
<th>Country</th>
<th>GDI*</th>
<th>GEM**</th>
<th>Seats in Parliament Held By Women</th>
<th>Female admin and managers</th>
<th>Female professional and technical workers</th>
<th>Ratio of female earned income to male earned income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botswana(0.589)</td>
<td>102</td>
<td>0.581</td>
<td>35</td>
<td>0.62</td>
<td>17</td>
<td>35</td>
</tr>
<tr>
<td>Lesotho (0.493)</td>
<td>117</td>
<td>0.483</td>
<td>-</td>
<td>-</td>
<td>17</td>
<td>-</td>
</tr>
<tr>
<td>Mauritius(0.785)</td>
<td>55</td>
<td>0.775</td>
<td>-</td>
<td>5.7</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Namibia (0.607)</td>
<td>101</td>
<td>0.602</td>
<td>33</td>
<td>0.572</td>
<td>21.4</td>
<td>30</td>
</tr>
<tr>
<td>S. Africa (0.666)</td>
<td>96</td>
<td>0.661</td>
<td>-</td>
<td>27.9</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Swaziland(0.519)</td>
<td>109</td>
<td>0.505</td>
<td>51</td>
<td>0.487</td>
<td>17.9</td>
<td>24.1</td>
</tr>
</tbody>
</table>

Source: 2004 Human Development Report, UNDP

*GDI is the gender-related development index (GDI), and measures achievements in the same dimensions using the same indicators as the HDI but captures inequalities in achievement between women and men. It is simply the HDI adjusted downward for gender inequality. The greater the gender disparity in basic human development, the lower is a country’s GDI relative to its HDI. The Rank is out of 144 countries.

**GEM is the gender empowerment measure (GEM) that reveals whether women take an active part in economic and political life. Differing from the GDI, the GEM exposes inequality in opportunities in selected areas. The Rank is out of 78 countries.

Economic Cooperation and Regional Integration

2.3.11 Regional stakeholders have heavily influenced Swaziland’s policies as the country has consistently maintained its commitment to increased regional integration. Swaziland belongs to the major regional groupings including SACU, SADC and COMESA. Swaziland is an original member of SACU where the country is part of the Botswana, Lesotho, Namibia, Swaziland (BLNS) group and an inner circle member of the Common Monetary Area (CMA). It has benefited from being a member of the Common Monetary Area and hopes to see increased benefits from financial integration with the rest of the SADC region. The membership of SADC and COMESA has benefited Swaziland to gain access to governance capacity building institutions, such as SADC Parliamentary forum and SADC Rules of Conduct of Elections. Swaziland’s trade policy emphasises strong ties with the regional countries. Swaziland’s exchange controls are being liberalised and harmonized such that a greater amount of investment is attracted and expanded within SADC member states. Such policies are expected to support activities in other sectors of SADC, notably trade, in which the trade protocol has been signed
allowing free movement of visible trade within eight years of ratification. Swaziland is also a member of the African Union and NEPAD, but is one of the countries yet to sign up for the African Peer Review Mechanism (APRM)

2.4 Legal and Judicial Systems

The Mixed Jurisdiction System of Law

2.4.1 To understand the system of law and governance in Swaziland, it is important to note that at present, the country follows a dual system of law and governance in which the British/Roman-Dutch legal system co-exists with the traditional Swazi law and custom. The courts and political systems organised around the Westminster system apply the British/Roman-Dutch Law, while the Swazi National Courts and rule apply the traditional Swazi law and custom. Barring the recent rule of law crisis, this dual system has generally worked well. Moreover, Swaziland is not unique in being what may be termed a “mixed jurisdiction” country, where a mixed legal system prevails. Indeed, a number of countries in Africa operate dual legal systems (traditional and modern) requiring internal conflict rules. However, where Swaziland is almost unique is in the strong traditional system that runs parallel and co-exists with the Westminster-type system and the lack of clarity on the line of demarcation between the two systems, especially given the extensive executive functions performed by traditional institutions, such as the Swazi National Council and the King’s Advisory Council. Nevertheless, even here, under Section 3 of the General Administration Act 1905, if there is conflict between the Swazi law and the Roman-Dutch Law the latter shall prevail, as it is considered the “law of the land”. Thus, it is important to note that the recent “rule of law crisis” was not necessarily a reflection of the conflict between traditional Swazi law and custom and the Roman-Dutch law, as it is generally accepted that the latter is pre-eminent where there is clash. Rather, the problem appears to have arisen because of the refusal by the executive to reaffirm this hierarchy, or because it was found not to be politically expedient to follow court rulings. Also, Parliament approved the Constitution of Swaziland Act in June 2005, which will operate as the supreme law of the country and goes a long way towards defining the separation of powers between the different arms of government.

Judicial Framework

2.4.2 The judiciary generally refers to those officers, including judges and magistrates who serve in courts of justice and have an ultimate decision-making function in the chain of justice. In most democracies, the judiciary interprets and applies the laws in a transparent and independent manner. The integrity of the judiciary and effectiveness of the courts ultimately assures the application of good governance. This section describes Swaziland’s judiciary and the court system, and analyses some problems in the judicial sector, with the aim of making proposals for improving the administration of justice.

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8 In Zwane v. Government of Swaziland, the then Prime Minister disregarded the Court Order halting the transfer of the Clerk Parliament, Mr. Ben Zwane to another post within the civil service on the grounds of political expediency.
2.4.3 The Judicial Service Commission was re-established under Act No.13 of 1982. Presently, the Commission has five members, namely, the Chief Justice, who is also its chairman; the Chairman of the Civil Service Board; and three members appointed by the King, of whom two are serving legal practitioners. The Principal Secretary in the Ministry of Justice and Constitutional Affairs is also Secretary to the Commission. The new Constitution proposes an increase in the size of the Commission from five to six, with the King appointing four members. The Chief Justice and the Chairman of the Civil Service Board are standing members of the Commission. The tenure of the other members is for a period not exceeding four years, though they are eligible for reappointment for only one additional term. The appointed members may be removed from the office only for inability to exercise the functions of their office or for misbehaviour. Before removal, the Chief Justice has to present the matter to the King, who then appoints a tribunal to enquire into the matter. The tribunal submits its report and makes recommendation to the King on the action to taken on the member concerned.

2.4.4 The Judicial Service Commission provides advice to the King on matters of law and the appointment of judicial officers as listed in the Act. It also exercises disciplinary control over the judicial officers it employs including their removal from office for good cause. The Judicial Services Commission Act generally makes adequate provision for the Commission to operate effectively, though there are no clear procedures and mechanisms for its operations. Also the mandate of the Commission is limited to judicial officers, which includes only the Registrar and Deputy Registrar of the High Court and the magistrates, while the judges are not included. The accountability of the Commission is also weakened by the fact that the Chair plus any other member can constitute a quorum.

2.4.5 The court system is based on South African Roman-Dutch law in statutory courts and Swazi traditional law and custom in traditional courts, and the Court of Appeal is the highest court to which all other courts subordinated. Statutory courts follow the Western tradition of justice, with each court made up of benches, or panels of judges, with a more senior judge as the chairman of each, and there is no jury. The statutory court system includes the Court of Appeal, the High Court, the Magistrates courts, and the Industrial Court. All these are headed by a Chief Justice under whom fall judges and magistrates. Traditional Swazi law and custom are applied in Swazi national courts presided over by National Court Presidents, some of whom may be chiefs or elders.

2.4.6 Presently, the Court of Appeal is the highest Court in Law and Appellate Jurisdiction in Swaziland. It is composed of six judges, the Judge President, and other five Judges. According to the Judiciary Act of 1968 appointments to the bench can be made either from among qualified Swazi nationals, or nationals from the Republic of South Africa, and all Commonwealth countries. The King appoints the Judges of the Court of Appeal on the advice of the Judicial Service Commission. At the time of the rule of law crisis in 2002, the Court of Appeal was composed of six retired South African Judges. The Court has unlimited jurisdiction over civil and criminal cases from Courts of Swaziland. The Constitution proposes to replace the Court of
Appeal with the Supreme Court consisting of the Chief Justice and not less than four other Judges. The judiciary in Swaziland in generally independent in most civil cases, though from time to time the Executive has taken positions that seek to undermine this independence. However, the judiciary has tended to jealously guard its independence, and even though the Appellate Court Judges have generally not been Swazi nationals, there is no evidence that they have in the past succumbed to political pressure, though the membership of the Chief Justice to the so-called “Thursday Committee”9 made this potentially likely. Nevertheless, the Judiciary is Swaziland has generally executed its duties with objectivity, impartiality and allegiance to the rule of law.

The High Court

2.4.7 Presently the High Court consists of five Judges appointed by the Kings on the advice of the Judicial Service Commission. Based on the availability of qualified candidates the nature of the appointment can be either permanent or on contract basis. Presently four of the judges are on permanent and one is on contract basis. The Judicial Service Commission fixes their remuneration on the contract basis. The High Court is empowered with unlimited civil and criminal jurisdiction to hear and decide matters brought before it. It can hear and review petitions and appeal petitions on the judgments of the lower courts. Under the proposed draft Constitution, the High Court will consist of the Chief Justice and not less than four other Justices who will be appointed by the King on the advice of the Judicial Service Commission. The judicial services are also not decentralised, and there is only one High Court, based in Mbabane. However, Government has begun to improve the access of the public to judiciary and legal services by decentralising the activities of Assistant Masters of High Court to the four regions. In addition, within the Decentralisation policy, there are plans to decentralise the delivery of justice and legal services below regional centres and towns.

Magistrate’s Court

2.4.8 The Magistrate’s Courts are governed by the Magistrate’s Courts Act of 1938, and are composed of three courts, namely, the Principal Magistrate’s Court, Senior Magistrate’s Court and Ordinary Magistrate’s Court. These courts have civil and criminal jurisdiction. Under Section 70(3) of the Magistrate’s Court Act the criminal jurisdiction of the top level Magistrate’s Court encompass all criminal offences except treason, murder, sedition, offences relating to coinage and currency, rape and any conspiracy or attempt to commit any of these offences. Civil jurisdiction is limited to cases involving a monetary value not exceeding 1,000 Emalan geni and matters not involving the dissolution of a marriage, estates and determinations as to mental capacity. On criminal conviction, top-level Magistrate’s Courts may impose maximum sentences of up to ten years and/or fines of up to E2,000. At present there are thirteen legally qualified Magistrates serving on Magistrate’s Courts. The Judicial Service Commission is responsible for appointing the Magistrates by advertisement and interview.

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9 This Committee, officially known as the Special Committee on Justice, is no longer operational. It was an informal palace advisory body that was not constituted by any legislation or royal decree. It was chaired by the Prime Minister, and had a fluid membership, which among others included the Attorney-General, the Minister of Justice, the Police Commissioner, the Director of Public Prosecution, the Chief Justice, and the selected chiefs and clan members. The Committee met on Thursday mornings, hence its name, and had audience with His Majesty on Thursday afternoon. It was been accused of usurping the powers of the Judicial Services Commission. (See International Commission of Jurists-Report of the Centre for the Independence of Judges and Lawyers, June 2003)
Industrial Courts

2.4.9 The Industrial Court of Swaziland, established in 1983 under the terms of the Industrial Relations Act of 1980, presently derives its jurisdiction from Section 8 of the Industrial Relations Act, 2000 (amended 2004). The industrial courts are vested with exclusive jurisdiction over labour matters. Disputes related to matters include unfair dismissal, contractual labour agreements and labour union actions or strikes are taken in these courts. Rulings from these Courts can be appealed to a three Justice panel of the High Court and then to the Court of Appeal. There are two Judges appointed by the Judicial Service Commission to take care of the industrial cases. Judges to the Industrial Court are appointed under the “saved provisions” of the 1968 Constitution of Swaziland Act.

National Courts

2.4.10 Swazi national courts administer the unwritten Swazi Law and Custom, and it is normally through these courts that ordinary citizens encounter the domestic legal system. The criminal jurisdiction of National Courts is limited to petty offences such as theft, assault and violations of traditional Swazi law and custom. Seventy percent of Swaziland’s population is in the rural areas and ninety five percent of the common problems are related to violation of Swazi Law and Custom and other petty offences. These are dealt with the National Courts and if the incumbent is not happy with the decision, they can approach the Magistrate’s court. The maximum sentences are limited to 10 months imprisonment and/or fine up to E120. Traditional courts are normally presided over by elders or chiefs, who apply Swazi law and custom. In most of the cases the presiding officers do not have legal background in terms of formal legal training or education. Cases are disposed of without recorded proceedings and the rules of legal procedure are not followed. Similarly the defendants are not permitted counsel to defend their cases. However, given that decisions are based on unwritten laws, the system exhibits challenges of interpretation and application. It is therefore, encouraging to note that the Government has initiated the Codification of Swazi law and Custom Project supported by the UNDP and Tibiyo TakaNgwane.

Independence of the Judiciary

2.4.11 Judicial independence is a pre-requisite for the rule of law and a fundamental guarantee of a fair trial. It is an indispensable requisite of a free society under the rule of law. The security of tenure of the judges, the security of their emoluments and their freedom from political control are the three pillars of the temple of justice. Thus, judicial independence is generally secured by providing judges with constitutional protection of tenure and a compensation that may not be diminished. Thus to ensure judicial independence, it may be necessary to give judges long-term security, making them not easily removable, and compensating them adequately. This frees the judiciary from the Executive control and interference. In Swaziland, security of tenure for judges, especially for those on fixed-term contracts may be tenuous, and there have been instances where the Executive has put pressure on the judges to take early retirement when they take legal decisions at variance with the state\textsuperscript{10}. It is encouraging to note that the new

\textsuperscript{10} For example, in August 2001 there was an attempt by the Executive to force the Chief Justice into early retirement on the grounds that he had reached the retirement age of 62 years prescribed by the 1968 Constitutions. The
Constitution recognizes the independence of the judiciary and provides that the retirement age of High Court and Supreme Court judges will be 75 years.

2.4.12 Judicial independence also implies security of emoluments for the judiciary, which cannot be interfered with by the Executive. In Swaziland, the Judicial Services Commission does not seem to have a clear role in negotiating the conditions of service for the judges of the Court of Appeal and High Court Judges, the conditions of judges are matter of the Executive discretion. On this point, the International Bar Association, in its 2003 Report on Swaziland observed that in general, there were conflicting interpretations regarding the powers and functions of the Judicial Service Commission. Also, there is separate budgetary head for Justice and Constitutional Affairs, where the controlling officer for the expenditure is the Principal Secretary in the Ministry of Justice and Constitutional Affairs. The modality of operation of these heads is similar to the other line ministries. The draft Constitution provides for the financial independence of the judiciary, and states that the salary and terms of office of judges shall not be changed to the disadvantage of the holder after appointment.

2.4.13 Another important pillar of judicial independence relates to judicial selection, which should be open and transparent, and performed by impartial bodies that are independent of the government and administration. However, where the constitutional or legal provisions and traditions allow judges to be appointed by the government, there should be guarantees to ensure that the procedures to appoint judges are transparent and independent in practice and that the decisions will not be influenced by any reasons other than those related to the objective and transparent criteria. Presently the King makes appointments on the advice of the Judicial Service Commission, on contract basis, in case of Judges of the Court of Appeal, and either on contract or permanent basis depending on the availability of qualified candidates for the High Court. In Swaziland, there is no evidence of systematic bias in the appointment of judges, though the manner of removal of judges before the prescribed age of retirement is cause for concern. In the draft constitution also the existing system of appointment is retained.

**Threat to the Rule of Law**

2.4.14 Swaziland has functioned without a proper constitution since the suspension of the 1968 Constitution in 1973, though a number of provisions in that Constitution were “saved”. Periodically then, there have been moments when the rule of law and judicial independence were threatened. The latest originated from a 28 November 2002 Statement by the then Prime Minister, in which he declared that the Government would not to recognize two Court of Appeal Judgments. This refusal to enforce a judicial order was seen as an attack on the independence of the judiciary, the rule of law and separation of powers, to which all the six Court of Appeal Justices responded by resigning. However, in September 2004, the present Prime Minister withdrew the disputed statement made by his predecessor and in early 2005 the Court of Appeal was re-instated.

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legislation however, provides for retirement at 75 years. (See International Commission of Jurists-Report of the Centre for the Independence of Judges and Lawyers, June 2003

11 International Bar Association (2003): “Swaziland Law, Custom and Politics: Constitutional Crisis and the Breakdown in the Rule of Law”
Administration of Justice

Institutional Bodies for Monitoring Justice

2.4.15 The Swaziland Law Society is an independent legal body of legal practitioners that came into existence in January 1966 on the basis of the Legal Practitioners Act 1964. Presently there are 140 members to the society. The Law Society assists the members by providing guidance on matters of law and supporting capacity building to face the legal challenges. The Government takes into account the opinions of the Law Society cases dealing with legal and judicial issues. However, the effective functioning of the Law Society is circumscribed by lack of essential resources such as office space, staffing, and library resources.

Judicial Resources

2.4.16 Inadequate judicial resources also affect the administration of justice. Lack of financial and human resources including trained support staff and an independent court budget have seen the judiciary functioning with outdated case law digest reports and judicial libraries, all which contribute to delays in the disposal of cases. It is estimated that the average time between filing a case, the hearing and the final decision could be between 6 months to 2 years or more. There are severe case backlogs with the result that defendants may languish in prison for years while awaiting trial. There is need to strengthen the system by providing it with all necessary law books, supply of IT equipment and with adequate funding. It may be beneficial to consider the option of introducing a fast-track court system to reduce the case back-load, as has been done in countries such as Ghana.

Role of Chiefs in administration of Justice

2.4.17 Under the terms of the Swazi Administration Order 1998 one of the major responsibilities of Chiefs is the maintenance of order, the prevention of crime and the adjudication cases. They have to try the cases and to keep record of the cases. However, they carry out these functions without courtrooms, secretariats or other supporting legal infrastructure. Similarly there is no national chieftaincy secretariat to maintain a national register of the chiefs. It is not easy to find out how many chiefs there are at a given time, though the approximate number of chiefs in place is thought to be around 300. Also the boundaries for Chiefdoms are not very clear or fixed, which from time time leads to disputes between chiefs. Rationalization of all chiefdom boundaries thereby establishing clearly defined boundaries over all areas would reduce the potential for conflicts to arise. It would also be useful to provide chiefs with some capacity strengthening, including some training in judicial and human rights matters.

Core Labour Standards

2.4.18 Swaziland has ratified 31 conventions related to international labour standards including the Convention on the Rights of the Child. Within the formal sector, the employment of children below the minimum age is not common though cases of such practices have been reported in the cotton growing regions of the country. The Ministry of Enterprise and Employment, which is responsible for enforcement, is however constrained by personnel shortages to monitor and enforce observance of standards. Labour relations have been strained in the last few years
mainly due to the challenge of coming up with an acceptable amendment to the Industrial Relation Act, which govern worker’s rights in the Kingdom. The Amendment of the Industrial Relations Act in 2000 was found controversial as it contained clauses criminalizing some union activity and restricting the right to strike. The amendments introduced in 2000 made workers and union officials financially and criminally liable for any material losses caused by both legal and illegal strikes. However, under pressure from the trade unions and the international community, especially the International Labour Organization, which expressed dissatisfaction with some of these clauses, the Act has since been revised and was subsequently passed in May 2004. The 2004 amended Industrial Relations Act provides for a structured framework for industrial relations and is expected to improve workers’ rights and boost investor confidence in the country. The Amendments also mean that Swaziland is now unlikely to forfeit benefits from the Generalized System of Preferences (GSP), under which African countries can export a range of products to the United States at reduced tariffs.

2.4.19 Swazi law allows workers to organize and bargain collectively. As such, collective wage bargaining is widespread and the industrial court deals with any disputes that may arise. There is a legally mandated sliding scale of minimum wages depending on the type of work performed. At the time of preparing the Country Governance Profile, the minimum monthly wage for a domestic worker is approximately $47 (E300), for an unskilled worker $67 (E420), and for a skilled worker $94 (E600). It has been suggested that companies in Swaziland tend to use minimum wages as ceilings rather than as floor for wages, and that in general they do not provide a worker and family with a decent standard of living.

2.4.20 The Government sets the safety standards for industrial operations, and it encourages private companies to develop accident prevention programs. Workers have no formal statutory rights to remove themselves from dangerous work places without jeopardizing their continued employment, and rarely do collective bargaining agreements address the matter.12

Law and Human Rights

2.4.21 Presently there is no Human Rights Commission to address human rights issues in Swaziland, though the new Constitution makes provision to have a Commission on Human Rights and Public Administration within one year after commencement of the constitution. Currently, Swaziland is a party to a number of human rights treaties, including the United Nations Convention on the Elimination of All Forms of Discrimination against Women; the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights. Since Swaziland is a party to these treaties, it has legally taken upon itself to implement the provisions of these treaties.

12 In May 2001 Trade Union Research Project (TURP), located in South Africa and the Center for Research on Multinational Corporations (SOMO), based in the Netherlands carried out research on Swaziland's garment industry and found that very few companies provided workers with protective clothing or safety gear, with some workers forced to bring their own face masks from home. This Report concluded that disregard for the health and safety of workers was common place.
Ombudsman

2.4.22 The Office of the ombudsman is required to investigate any cases of mal-administration, where it is alleged that a person has suffered injustice and it does not appear that there is any remedy reasonably available by way of proceedings in a court or by way of appeal from a court. Allegations of mal-administration may take various forms, including among others, corruption, bribes, discrimination, misleading a member of the public to his or her rights, and using power for the wrong reasons. To be effective, the Office should be independent of the organizations it has power to investigate, it should be adequately resourced, and it should not be seen to be in competition with the established courts. The Ombudsman Office in Swaziland was closed after operating for only three years, during which it only received only 40 complaints. Part of the problem was that it lacked resources for a wider outreach. Experience in other countries suggests that the Office of the Ombudsman is more effective if it can receive and handle complaints from a wider scope of society rather than from just the urban literate members of society. Thus at present there is no Ombudsman in Swaziland. However, given the current concern with public corruption and the exercise of executive prerogative, it may be beneficial to re-establish the Office of the Ombudsman with sufficient staff, resources and necessary infrastructure to effectively safeguard the human rights of citizens.

2.5 Combating Corruption

2.5.1 Public corruption rarely occurs where it can be observed, and as such data on the prevalence of public corruption in the country is weak. There is however, a general perception in Government circles and among the general public that corruption is growing problem. This issues was raised by the Prime Minister in his 2004 Transformation Policy Statement, the Prime Minister that:

“Government is constantly receiving reports about corruption being on the increase. It appears that current measures to deal with this evil are ineffective. This has to change forthwith and there will be zero tolerance to corruption. Government is committed to fighting corruption at every level, both in the private and the public sectors. Government is currently working on a Bill that will soon be presented to Parliament to replace the Prevention of Corruption Order No.19 of 1993. The Bill aims to strengthen the Anti-corruption Commission and give the Commission more powers to investigate, prosecute and deal conclusively with corruption and the proceeds thereof confiscated.”

2.5.2 What is significant in the Prime Minister’s statement is not only the recognition that corruption is a growing problem, but also that the existing instruments for dealing with the problem need to be strengthened. This especially related to the Anti-Corruption Commission, which was established in March 1998 following the enactment of the Prevention of Corruption Order No.19 of 1993, to carry out corruption prevention measures and investigations into corruption complaints. According to this Order, once corruption is detected and reports received are investigated, the appropriate cases are forwarded to the Director of Public Prosecutions (DPP) for instituting legal proceedings. However, the Commission has been criticised for being slow in instigating actual prosecutions. Since its established, the Anti-corruption Commission has reported 32 corruption cases with the DPP, ranging from bribery to fraud, and as of September 2004, the DPP had been able to settle only one case out of the 32 reported cases.
Since the Prevention of Corruption Order No.19 of 1993 was not enacted in the parliament, there is still no enabling legislation to make it functional. Thus, the validity of the order was challenged in the courts, making it difficult for the Anti-corruption Commission and DPP to proceed with the implementation of this Order. There are a number of known cases on corruption where action could not be taken for want of proper legislative backing for the Commission. There is no fast track system to speed up the investigated cases.

2.5.3 According to Government statements following the issuance of the report by a private consultant on corrupt practices, losses due to corruption are high, with an estimated loss due to graft of £40m per month. It is therefore, encouraging to note that in order to remove the bottleneck and increase the power of Anti-Corruption Commission, the government is now moving to pass a new Anti-corruption Bill, which is currently before the parliament. This Bill aims to strengthen the Anti-corruption Commission and give it more powers to investigate, prosecute and deal conclusively with corruption and confiscate any proceeds obtained through corruption. The provisions in the new bill indicate that the approach of combating corruption has now expanded beyond prosecution to include investigation, civic education, corruption prevention, in addition to prosecuting suspected offenders. To take this corruption agenda forward, the Government has recently extended an invitation for the first time, to the Berlin-based NGO, Transparency International, to investigate practices of government ministries.

2.5.4 Other measures have been taken to curb public corruption, including establishing a Committee to review the payments to suppliers and contractors, to ensure that they are made only after proper vetting by the Committee. Similarly the new Constitution makes provision for the establishment of a Integrity Commission, to which holders or potential holders of public office will be required to submit a written declaration of all property, and assets they own, or any benefit gained or liabilities they owe, whether directly or indirectly within six months after the commencement of the Constitution or before taking office. Most of the public office holders are included in the list. If the provisions are followed strictly it will help to prevent corruption in public offices.

2.5.5 Civic Education: The Public Education and Corruption Awareness Campaign is another effective strategy that has been set-up to sensitise the public about the dangers and evil effects of corruption in society. In promoting this strategy, the following initiatives are employed. (a) Dissemination of information leaflets and posters to the public; (b) Making of reach-outs and holding of lectures in schools and in the employment sector; (c) Participation in annual Trade Fair Exhibitions and Information stands; (d) Holding television and radio talk shows; and (e) Making electronic and print media advertisements.

Anti-Money Laundering

2.5.6 The goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. The possible social and political costs of money laundering, if left unchecked or dealt with ineffectively, are serious. The economic and political influence of criminal organizations can weaken the social life, collective ethical standards, and ultimately the democratic institutions of society. In countries transitioning to democratic systems, this criminal influence can undermine the transition. Most fundamentally, the money laundering is linked to criminal activity and also it enables the continuation of the criminal activity.
2.5.7 The Swaziland Government is aware of the potential dangers of not putting in place a mechanism for preventing money laundering. Hence, in 2001 the Money Laundering (Prevention) Act was enacted to prevent the money laundering and to curb allied offences. The Central Bank of Swaziland was given powers of the supervisory authority to implement the Act. However this Act could not be implemented due to lack of clarity in the provisions and lack of effective measures for the Central Bank of Swaziland to implement it. The Government has drafted a new bill, the Money Laundering and Financing of Terrorism (Prevention) Bill 2004, with the assistance from the IMF. The Bill is now in the process of enactment. The new bill seeks to strengthen the existing framework embodied in the Money Laundering (Prevention) Act of 2001 and the Serious Offences (Confiscation of Proceeds) Act of 2001. It addresses, inter alia, associated issues such as customer due diligence, the process for receiving, analyzing and disseminating suspicious transaction reports, and the establishment of a Financial Intelligence Unit. However, this Bill does not cover the issues with respect to domestic and international cooperation and anti-terrorism issues such as mutual legal assistance and special investigative techniques.

3. SWAZILAND GOVERNMENT GOVERNANCE AGENDA

3.1 Key Elements of the Governance Agenda

3.1.1 The Government of Swaziland is committed to the promotion of national development through improved governance systems that are guided by, and within the aspirations of the 1999 NDS, whose Vision is that:

"By the Year 2022, the Kingdom of Swaziland will be in the top 10% of the medium human development group of countries founded on sustainable economic development, social justice and political stability"

3.1.2 Important elements of the NDS include sustainable national budget; full transparency and accountability in the use of public funds; realistic monetary policy making; maximization of productive employment opportunities; mainstreaming of gender relations in project formulation; promotion of appropriate education and training; economic diversification; food security; commercialization of agriculture in SNL, environmental management and R&D. To operationalise NDS, the Government has initiated several legal, institutional, financial, and constitutional reforms to improve the governance, accountability, and transparency across the public sector and civil services. These reforms will aid in the poverty reduction, human capital development, in promoting sustainable growth and improving the overall quality of life in Swaziland. All these efforts are underpinned by the Prime Minister’s expressed commitment to good governance in his recent Transformation Policy Statement of September 2004. The Prime Minister has shown a strong will to initiate and implement various reforms that have also been supported by the King His Majesty Mswati III. Both the Prime Minister and the King have separately announced their visions for making Swaziland as one of the top 10 percent developing countries by 2022.
3.1.3 Despite the commitment shown by the government to good governance, its pursuit is not guided by any coherent policy framework. The government has undertaken a number of ad hoc initiatives aimed at deepening systems of good governance. Amongst others these initiatives include, development of a new constitution, public sector management reforms, fiscal restructuring, strengthening of anti-corruption measures, and measures to improve human rights, etc.

3.2 Summary of Key Areas Requiring Governance Actions

This sections provides a summary of the key areas requiring governance action in four key areas, namely, public finance and public administration; judicial and legal system; anti-corruption; and, gender equity. The Government of Swaziland has demonstrated commitment to improving governance in the country as outlined in the Prime Minister’s 2004 Transformation Policy Statement. Hence in a number of areas identified below, the authorities have begun to take important key actions, such that what is required, especially from the international community is to provide assistance to a number of these existing initiatives.

3.3 Public Sector Reform and Public Administration

Public Sector and Civil Service Reforms

3.3.1 Swaziland is in the process of restructuring the public sector, including creating an efficient and productive civil service. As mentioned above, the Government is in the process of implementing the PSMP to transform the civil service into an efficient provider of social services. The programme addresses a number issues such as weaknesses in the management of the civil service establishment and salary levels. The implementation progress has been rather slow, however, suggesting that there is a problem of lack of capacity to implement the programe and possible resistance from the labour movement. There is thus an urgent need to complete the ongoing initiatives. In addition, the process may be improved by establishing an independent and autonomous Civil Service Commission with authority to recruit, promote and discipline government staff. There is further need to undertake a comprehensive review of reference and training material with an aim to develop a system for career planning of civil servants.

Public Sector Enterprise Reforms

3.3.2 Another area requires attention relates to the operations of public enterprises. This would require strengthening the Public Enterprises and Control Act 1989 to ensure transparency in governance of public enterprises and to make governing boards more autonomous and independent. Further, provisions could be made to allow for the representation of employees and workers on the boards of public enterprises. Employee representation on corporate boards brings valuable first-hand operational knowledge to corporate board decision-making. This information improves the monitoring capability of the board and reduces agency costs within the enterprise. A suitable mechanism could also be developed to sanction public enterprises that do not meet their performance targets and reward those that do. Further, there is need to ensure that Public Enterprises benefiting from government subventions are audited by the Auditor General, and open to public scrutiny as the Auditor General’s Report is debated in Parliament. It is encouraging to note that the Government recently approved a privatisation policy that addresses some of the concerns. The next challenge acing the authorities is the implementation of this policy.
Performance of the Budgeting Process and the MTEF

3.3.3 The Government of Swaziland could enhance the budgeting process by following the IMF Fiscal Transparency Code for improving and evaluating the budget process. In particular, the government should take efforts to increase stakeholders’ participation in formulation and resource allocation for various developmental projects. It may be necessary to also put in place a legal framework that would oblige the government to ensure participation by the civil society and the private sector in the budgeting process.

3.3.4 Further, there is need to expedite the implementation of the MTEF budgeting software so that indiscipline in public expenditure can be monitored and controlled. There is a considerable scope for capacity building in this area and other donors, including the Bank, could complement the European Union and assist the Government of Swaziland by providing technical assistance and expert advice and training in development of a comprehensive performance monitoring system.

Strengthening the Regulatory Framework

3.3.5 There is need to undertake a comprehensive review of the existing regulatory framework and corporate governance systems and initiatives required by the Swaziland government in complying with the OECD Principles of Corporate Governance, for which the Bank should consider providing assistance. The international community is supporting the development of guidelines, standards, and codes to assess financial management and governance practices. The International Accounting Standards Committee (IASC) has been taking efforts to harmonise the accounting and reporting standards and practices. The Government of Swaziland needs to develop national accounting standards in order to strengthen the accounting education and profession for effective implementation of international accounting standards in public and private sector organisations.

Improving the Procurement System

3.3.6 Procurement process is another critical area for improving transparency and accountability of the Swaziland government. The Stores Regulation 1975, last amended in 1992 and the Financial Management and Accounting Procedures Manual 1993 which deals with procurement and stores is outdated and needs a thorough review and reform. There is need for Government of the Swaziland to develop a legal framework for procurement and related activities to ensure transparency and accountability in the government procurement process.

Need for a Coherent Legislative Strengthening Programme

3.3.7 Legal and judicial reforms need to move to centre stage on the development agenda of Swaziland, in order to foster the development of a robust private sector, respond to the requirements of trade and globalisation (AGOA), and make the state accountable to its own citizens. As such Swaziland needs to create a legal framework that would provide for the operation of stable and credible institutions to strengthen the enforcement of property rights and enhance the predictability, transparency and accountability of state actions. This would require that the country develops and adopts an adequate legal and judicial development strategy, which should begin with the undertaking of an exhaustive legal diagnostic study. Development
partners, including the African Development Bank may assist in financing such a study. The basic issues that would require attention include separation of powers, reform of the “rule of law”, updating existing laws and enhancing the capacity of the judiciary. This action would complement the Codification of Swazi law and custom project funded by the Government, Tibiyo TakaNgwane and the UNDP.

Separation of Powers

3.3.8 One of the most important issues concerning the governance of Swaziland is related to the application of the dual system of government. The lack of clarity in roles, responsibilities and authority of the elected government and the Monarchy is a subject matter of considerable debate and confusion. The new draft constitution, which is in the process of adoption, does provide sufficient clarity on the roles of the Government and the traditional structures. Nevertheless, it is important to point out that what is required is not to necessarily change the system, but to make it more functional and transparent by demarcating the boundaries of the different systems so as to minimize or eliminate potential areas of conflict or uncertainty, and affirm the pre-eminence of Roman-Dutch law and international standards in situations where there is conflict.

Restore Confidence in the Judiciary

3.3.9 Another critical challenge facing the government is to restore the confidence in independence of judiciary. It is therefore important that the government sets up clear guidelines and provide adequate resources to ensure that Judicial Service Commission’s operations are in accordance with the Judicial Services Acts and Regulation. Important steps were already taken by the withdrawal of the so-called November 28 Statement. The Government would need to take the next step and actually comply with the rest of the Court Order. Affirming judicial independence and accountability could be strengthened by laying down suitable rules and procedures for making judicial appointments, and increasing the number of High Court and Industrial Court Judges in order to expedite and settle the pending cases.

Update Existing Laws

3.3.10 A number of laws in Swaziland require updating, while traditional laws and custom require codification as is happening with the assistance of UNDP. Some acts, like the Employment Act 1980, The Wages Act 1964, Custom and Excise Act 1971, the Sales Tax Act 1983, constitute an example of some of the prevailing laws that are outdated. Others like Family Law, Marriage Act and the Property Act need revision to resolve the various concerns of gender inequities, at least in the context of the new constitution. Even if the Constitution gets approval, outdated laws can create lot of legal battles at later stage. There is thus an urgent need conduct a comprehensive review of all laws, which may be accomplished by the establishment of a Law Reform Commission to review all existing laws in Swaziland.
3.3.11 As mentioned above, Government recognises corruption as a major constraint to sustainable development and the need to strengthen the existing mechanisms and instruments for fighting corruption. It is, therefore, critical that the government should speed up the adoption and implementation of the Anti-Corruption Bill 2004. Anti-corruption legislation on its own will, however, not be sufficient to reduce corruption. In addition to passing the Act, the Anti-Corruption Unit should be provided with sufficient human and material capacity to undertake its stated functions, and an anti-corruption strategy or programme should also be developed. Enforceable ethical standards code for public officials should also be prepared and adopted as a way of increasing transparency and accountability of public officials, while in parallel, efforts should be made reform the civil services, review remuneration of civil servants, strengthen the judiciary and capacity of enforcement agents. Further, to safeguard the human rights of ordinary Swazi citizens, Office of the Ombudsman should be re-established, and training should be provided to chiefs in judicial and human rights matters.

Gender Equity

3.3.12 To address gender concerns, the Government has established a Gender Unit in the Ministry of Home Affairs to better focus the efforts to correct gender disparities, which is crucial to poverty reduction. Areas which require attention include legal protection such as making the legal system more sensitive to gender concerns, primary health care and particularly reproductive health, enhancing the participation of women in economic growth and development by increasing the number of women in decision-making positions, both in the public and private sectors, conducting advocacy campaigns within different branches of government to improve sensitivity to gender related concerns, and, initiating a capacity building programme of the Gender Unit to carry out its mandate.

4. DONOR SUPPORT AND SCOPE FOR BANK GROUP INTERVENTIONS

4.1 Arrangements for Donor Support

Since Swaziland attained middle-income country status, a number of donors have scaled down their activities in the country, preferring instead a more regional approach. As a result, the volume of donor funding has dwindled substantially, with ODA flows declining from US$35 million (or 2.6 per cent of GNI) in 1998 to US$27 million (or 1.4 per cent of GNI) in 2003. Among development partners, donor coordination is the responsibility of the UNDP, while within Government, the Ministry of Economic Planning and Development has that responsibility.

4.2 Donor interventions in the area of governance

4.2.1 In the area of governance, the United Nations Development Programme (UNDP) is the main player, with the EU, UNICEF, the Commonwealth, DFID and the South Africa Human Rights Trust complementing interventions in the area of governance. Interventions by UNDP
have included capacity building support to strengthen constitution-drafting process and the reform of laws. The objectives of the UNDP programme of support is to do the following:

- to harmonise the modern and traditional systems of governance;
- to define the roles and responsibilities of the various institutions as well as enhance their capacity to implement national plans;
- to identify services within the central government administration that can be decentralised to the Tinkhundla centres;
- to review the civil service with a view to proposing reforms, which would result in better service delivery as well as some cost savings. It may be necessary to re-organise certain services in a way that recognises the existing skills limitation; and
- to strengthen the capacity of the civil service, in particular the capacity to manage the economy as well as to participate effectively in trade negotiations;

4.2.2 The UNDP governance programme is focused on strengthening capacity in five main areas, namely, decentralised governance; constitutional reform; development management; the administration of justice; and civic education for popular participation. An important project supported by the Government of Swaziland, Tibiyo TakaNgwane and the UNDP is the Codification of Swazi law and custom. Already, the project has produced twelve manuals on Swazi law and custom, which have also been translated into SiSwati. In addition, the UNDP programme incorporates poverty alleviation and HIV/AIDS components.

4.2.3 The EU is the largest multilateral donor in the country, and is currently implementing its 2001-07 Country Strategy Paper, which includes providing capacity building support in the area of governance. Support has been directed towards promotion of gender equality, HIV/AIDS, decentralisation, participatory and decentralised poverty reduction programme, capacity building and environmental management.

4.2.4 Among the bilateral donors, China, Taipei is the largest donor, with its programme focused mainly in providing technical assistance in agriculture, transport, rural electrification and computerisation and health. The United States Government assistance is channelled through its Embassy in the country and through the regional office in Pretoria, as the United States Agency for International Development (USAID) does not maintain a mission or staff in Swaziland. The US programme is focused on providing technical support for HIV/AIDS activities through the Regional HIV/AIDS Program (RHAP) and the Ambassador’s Initiative on HIV/AIDS. Through its Democracy and Human Rights Fund, the US Government has provided support to Lawyers for Human Rights, Swaziland Law Society, Swazi News Council, Women in Law in Southern Africa, and the World University Services. This Fund is used to finance short-term activities that encourage democratization and the protection of human rights in the country. DFID’s bilateral programme to Swaziland is small, with most of the support provided as part of the regional assistance through DFID-Southern Africa. In the past, DFID support to Swaziland included a rural water project and support for the Swaziland non-governmental organisation coalition (CANGO), regional work on HIV/AIDS and trade.
4.3 Donor Support for A Coherent National Governance Programme

Policy support for good governance, while not always secure, exists in Swaziland, and is embodied in various (saved up) constitutional provisions, administrative rules and regulations and policy pronouncements embedded in national development goals. However, existing organisational structures and mechanisms, administrative and operational systems and processes and institutions reveal some vulnerabilities with regard to capacities and resources for effective governance. Good governance can not be a fragmented or piecemeal pursuit independently undertaken by various institutions and departments, but involves carefully planned and systematically integrated and coordinated efforts of all key stakeholders in the area of good governance, including government, private sector and civil society. With the assistance of development partners, the government should initiate a process to formulate a national agenda for good governance that would bring together all reform initiatives being implemented or planned in governance areas and provide the overall framework for coordinated action of major stakeholders. Governance areas assessed in this CGP, namely, civil service reform, financial management, decentralization, electoral process, legal and judicial framework, gender, poverty reduction, and civil society participation, can form core governance areas to be incorporated into the national governance agenda, and could be a vehicle through which development partners could channel their support for good governance in the country.

4.4 Scope for Bank Group Support

4.4.1 The CGP for Swaziland has identified a number of areas in which actions need to be taken to enhance good governance in the country. While responsibility for good governance lies, first and foremost with the authorities in Swaziland, the Bank should build on their willingness and commitments to address governance issues. The government has demonstrated considerable willingness to improve governance in the Kingdom, as highlighted in the Prime Minister’s Transformation Policy Statement given in September 2004. The Bank’s contribution to good governance may focus in two areas, namely, assisting the government to improve the public sector institutional management by providing expert advice and training in development of a comprehensive performance monitoring system; and developing and maintaining a sound, transparent and rules-based regulatory environment conducive to private sector development, through capacity strengthening in the public and legal sectors. The Bank could also offer support in funding a comprehensive review of the existing regulatory framework and corporate governance systems and initiatives required by the Swaziland government in compliance with the OECD Principles of Corporate Governance.

4.4.2 The envisaged support in the area of governance would consist of both lending and grant-financed activities. The lending activity would take the form of budget support for reforms in public administration or public finance; while grant resources may be obtained from the Middle-Income Countries (MIC) Trust Fund for institutional support and capacity building.

4.4.3 Two possible areas are available for support from the MIC Trust Fund, both related to institutional strengthening and capacity building. These include support for the decentralisation programme and supporting the programme to improve the legal and judicial framework that the Ministry of Justice is currently working.
5. CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

The Government of Swaziland has over the recent past initiated several legal, institutional, financial and constitutional reforms aimed at addressing governance, accountability and transparency across the public sector and civil services. However, despite commitments shown by the Government to good governance, absence of a formal coherent framework for implementation of good governance agenda has posed serious challenges to this endeavour. The present government has initiated various reforms in this direction, however what is now required is to identify the policy overlaps and capacity gaps and coordinate the efforts of various departments for effective implementation of government’s good governance agenda.

5.2 Recommendations

5.2.1 In view of the efforts currently being made by the Government of Swaziland to address challenges in promoting good governance, the country deserves to benefit from assistance and support from the Bank Group and other development partners to facilitate the operationalisation of its governance agenda.

5.2.2 This CGP report is to be circulated to the Board of Directors for the purpose of information sharing.
Table A1. Summary of Governance Issues in Swaziland

<table>
<thead>
<tr>
<th>Governance Pillars</th>
<th>Issues</th>
<th>Actions Required</th>
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<tbody>
<tr>
<td>Accountability</td>
<td>• Absence of an approved Constitution</td>
<td>• Implementation of the Public Sector Financial Management Programme (PSFMP)</td>
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<td></td>
<td>• Existing bureaucracies in the dual system of governance</td>
<td>• Implementation of the Public Sector Reform Programme- efficient and effective public management</td>
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<td></td>
<td>• Lack of clarity on the demarcation of the two systems pose a challenge to standards and principles of good governance and the rule of law</td>
<td>• Adoption of the new Draft Constitution</td>
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<td>• Continuous ban on political parties</td>
<td>• Introduction of measures for expenditure discipline</td>
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<td></td>
<td>• Lack of discipline in public financial management</td>
<td>• Establishment of a sound oversight for Public Sector accounting and international audit arrangements</td>
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<td></td>
<td>• Government subsidies to PEs</td>
<td>• Enhance civil service culture</td>
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<td></td>
<td>• Size and the effectiveness of the Civil service</td>
<td>• Improve fiscal sustainability</td>
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<td></td>
<td>• Non-repayment of loans</td>
<td>• Strengthen financial governance norms in the public and private sector</td>
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<td></td>
<td>• Decentralised nature of the promotion and appointment of public officials</td>
<td>• Strength the procurement system</td>
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<td></td>
<td>• Lack of performance monitoring</td>
<td>• Reporting responsibilities, the sharing of data and information on a disaggregated basis through decentralized, modular information system</td>
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<td></td>
<td>• Fiscal indiscipline</td>
<td>• Enhance transparency and accountability in key Public institutions</td>
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<td></td>
<td>• Delays in the approval of licenses on SNL</td>
<td>• Enhance transparency through financial and performance auditing</td>
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<td>Equity, Empowerment and Participation</td>
<td>• High HIV/AIDS prevalence and attrition rates</td>
<td>• Undertake performance audits</td>
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<td></td>
<td>• Weak business environment</td>
<td>• Promote Free and responsible media and press</td>
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<td></td>
<td>• Gender dimension to poverty</td>
<td>• Launch capacity building initiatives</td>
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<td></td>
<td>• Effects of traditional practices and modern laws on women</td>
<td>• Set up deposit insurance system</td>
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<td></td>
<td>• No mechanism for NGOs registration</td>
<td>• Institutionalize NGOs and CSOs</td>
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<td></td>
<td>• The rule of law</td>
<td>• Draft a decentralisation policy</td>
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<tr>
<td>Legal and Judicial Systems</td>
<td>• Settlement of disputes</td>
<td>• Promotion of gender mainstreaming and the advancement of women</td>
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<tr>
<td>Anti-corruption drive</td>
<td>• High costs associated with corrupt practices</td>
<td>• Enhance awareness of the need for gender balance and the to put a stop to gender violence</td>
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<td></td>
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<td>• Facilitate equitable access and control over economic resources</td>
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<td>• Establish an institutional framework for effective gender budgeting and the implementation of gender agenda.</td>
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<tr>
<td>Key Issues/Areas</td>
<td>Actions to be taken</td>
<td>Monitoring Indicators</td>
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<td>-------------------------------</td>
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</tbody>
</table>
| Civil Service Reforms         | • Establish an independent and autonomous Civil Service Commission with authority to recruit, promote and discipline government staff.  
                                 • Implement the programme for rightsizing the civil service  
                                 • Undertake a comprehensive review of reference and training material with the aim to develop a system for career planning of civil servants. | Progress in implementation of the PSMP               |
| Public Sector Enterprise Reforms | • Strengthen the Public Enterprises and Control Act 1989 to ensure transparency in governance of public enterprises and to make governing boards more autonomous and independent  
                                 • Ensure that the Auditor General audits Public Enterprises benefiting from government subventions.  
                                 • Ensure adequate representation of employees and workers on the boards of public enterprises  
                                 • Develop a performance based mechanism for reward and penalty | Auditing of PE by Auditor General  
                                 Restructuring and commercialisation of Public Enterprise |
| Strengthening the Regulatory Framework | • Undertake a comprehensive review of the existing regulatory framework  
                                 • Develop national accounting and audit standards in order to strengthen the accounting and auditing education and profession for effective implementation of international accounting and auditing standards in public and private sector organisations. | Improved quality of accounting and audit |
| Corporate Governance          | • Empower the Office of the Registrar of Companies to effectively supervise governance of public and private sector corporations in Swaziland | Functioning Office of the Registrar of Companies     |
| Performance of the Budgeting Process and the MTEF | • Expedite the implementation of the MTEF budgeting software and its required training.  
                                 • Strengthen fiscal reform process, with focus on pro-poor and pro-growth expenditure.  
                                 • Increase stakeholders’ participation in formulation and resource allocation for various developmental projects | Budget Outlook Paper consultations transparent and participatory |
| Framework for the new Constitution | • Establish a Law Reform Commission to review all existing laws in Swaziland.  
                                 • Undertake an exhaustive legal diagnostic study with the view to provide a comprehensive update and address issues of separation of powers, reform of the “rule of law”, updating existing laws and codifying traditional Swazi law and custom, and enhancing the capacity of the judiciary. | Constitution adopted |
| Legal and judicial reforms     | • Develop and adopt an adequate legal and judicial development strategy for a coherent Legislative Strengthening Programme to enforce property rights and enhance the predictability, transparency and accountability of the state actions  
                                 • Establish a more functional and transparent dual system of government by demarcating the boundaries of the different systems so as to minimize or eliminate potential areas of conflict or uncertainty, and affirm the pre-eminence of Roman-Dutch law and international standards in when there is conflict  
                                 • Set up guidelines and adequate resources to ensure that Judicial Service Commission’s operations are in accordance with the Judicial Services Acts and Regulation  
                                 • Establish suitable rules and procedures for making judicial appointments, and increasing the number of High Court and Industrial Court Judges in order to expedite and settle the pending cases.  
                                 • Establish commercial courts | Traditional law and custom coded |
| Anti-Corruption and the Administration of Justice | • Speed up the adoption and the operationalisation of the Anti-Corruption Bill 2004.  
                                 • Re-establish the Office of the Ombudsman to safeguard the human rights of ordinary Swazi citizens  
                                 • Provide training to chiefs in judicial and human rights matters. | Approved Anti-corruption Law |
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