



# **NATIONAL LABOUR MIGRATION POLICY**

**FOR**

**LESOTHO**

**Ministry of Labour and Employment (MoLE)**

**March 2018**

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## List of abbreviations

AGOA	African Growth and Opportunities Act (United States)
ALEB	Association of Lesotho Employers and Business
AU	African Union
BCEA	Basic Conditions of Employment Act (South Africa)
BIPO	Basotho Immigrants Protection Organization
BLA	Bilateral Labour Agreement
BoS	Bureau of Statistics
CAT	International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHE	Council on Higher Education
CoD	Country of Destination
COIDA	Compensation for Occupational Injuries and Diseases Act (South Africa)
CoO	Country of Origin
CRC	International Convention on the Rights of the Child
DDPR	Directorate of Dispute Prevention and Resolution
DHA	Department of Home Affairs (South Africa)
DIRCO	Department of International Relations and Cooperation
DoL	Department of Labour (South Africa)
GDP	Gross Domestic Product
GoL	Government of Lesotho
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families
IDUL	Independent Democratic Union of Lesotho
ILO	International Labour Organisation
IOM	International Organization for Migration
KAI	Key Area of Intervention
LELO	Lesotho Export Labour Organisation
LFS	Labour Force Survey
LHDA	Lesotho Highlands Development Authority
LHWP	Lesotho Highlands Water Project
LLC	Lesotho Labour Council
LMMA	Labour Migration Management Assessment
LMPF	Labour Migration Policy Framework (SADC)
LNDC	Lesotho National Development Corporation
LRA	Labour Relations Act (South Africa)
LSP	Lesotho Special Permit
LTUC	Lesotho Trade Union Congress
MDA	Mineworkers Development Agency
MFAIR	Ministry of Foreign Affairs and International Relations
MoLE	Ministry of Labour and Employment
MoU	Memorandum of Understanding
MPF	Migration Policy Framework for Africa
MWA	Migrant Workers Association
NACOLA	National Advisory Committee on Labour
NCCM	National Coordination Committee on Migration

NCDC	National Curriculum Development Centre
NGO	Non-governmental organization
NHTC	National Health Training College
NHRDP	National Human Resources/ Manpower Development Policy
NLMP	National Labour Migration Policy
NMDS	National Manpower Development Secretariat
NSDP	National Strategic Development Plan
NUL	National University of Lesotho
NUM	National Union of Mineworkers (South Africa)
OECD	Organization for Economic Cooperation and Development
PEA	Private Employments Agencies
PES	Public Employment Services
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAMA	Southern African Mineworkers Association
TEBA	The Employment Bureau of Africa
UDHR	Universal Declaration of Human Rights
UIF	Unemployment Insurance Fund (South Africa)
UN	United Nations
UNCTOC	United Nations Convention against Transnational Organized Crime
UNHCR	United Nations High Commissioner for Refugees
UNITE	United Textile Employees
WHO	World Health Organization

## Preface

The Kingdom of Lesotho has been shaped throughout its history by labour migration and mobility. Considering Lesotho's geographical and demographic situation—a landlocked country with 33.5 per cent of its population under the age of 15, this feature is likely to remain dominant for decades to come.

Our common knowledge and available research show us that the legacy of the migrant labour system has overall been negative for Lesotho. Our burden of occupational disease, particularly tuberculosis and silicosis, stands among the highest in the world relative to our population; the share of our Gross Domestic Product (GDP) to migrant workers' remittances continues to be extremely high (15.1 per cent) inducing a situation of dependency; income from migrant labour has only had minimal poverty alleviation impact and has also raised considerable challenges in terms of reintegration of returned workers into our labour market.

However, after over a century of migrant labour, we may draw valuable lessons from past failures and from the empirical knowledge accumulated by our migrant workers, their families, the web of civil society organisations and the civil servants assisting them. This is what we now need to build on.

Since the 1990s, when large scale restructuring started affecting South African mines and resulted in retrenchments of Basotho miners, there have been profound changes in migration flows from and into Lesotho. More and more women are considering labour migration especially for domestic work and cross-border trade; seasonal agricultural workers are now employed as far as the Western Cape in South Africa; Basotho students also increasingly enrol abroad; while the scourges of illegal mining and human trafficking have become more prominent.

In the meantime, Lesotho has become host to increasing numbers of migrant workers, from neighbouring South Africa, as well as from Southern Africa (Democratic Republic of Congo, Zimbabwe) and Asia (China in particular). Most of these migrants are skilled and either follow investment, in retail, textile or construction for instance, or are refugees with a professional background (medical doctors from the DRC for instance).

The Ministry of Labour and Employment (MOLE) has therefore realised that Lesotho needs a completely different approach to the management of labour migration, one which is strategic and proactive, protective of its citizens in their efforts to secure and benefit from employment abroad but also capable of attracting and retaining skills in the country to serve Lesotho's development agenda and integration into its region.

Despite many challenges, the Government of Lesotho (GoL), with support from the International Labour Organization (ILO) and the International Organization for Migration (IOM), has been persistent and coherent in its quest for more efficient frameworks and implementation instruments. Since 2013, the GoL has initiated reform of migration policy, and since 2015, the MoLE has spearheaded the development of a National Labour Migration Policy (NLMP) to respond to these emerging challenges in the context of the SADC call.

MoLE has adopted a broad-based, participatory approach, inclusive of social partners and civil society stakeholders who have been associated at all stages of the development of the policy and its various accompanying instruments. Not only is this the first time in Lesotho's history that the country will adopt a pro-active labour migration policy based on the interests of its citizens and national development priority but it is also particularly innovative in terms of method.

MoLE sees this as a new era in labour migration policy and will strive to ensure professional, result-driven management and implementation by Government services and transparent and participatory monitoring and evaluation by all key stakeholders.

***Khotso! Pula! Nala!***



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**H.E. Keketso Rants'o (MP)**  
**Honourable Minister of Labour and Employment**



## Executive summary

The **National Labour Migration Policy (NLMP)** for Lesotho is divided into **seven sections and a set of annexes**:

- Section 1. Background of the policy development process.
- Section 2. Migration into and from Lesotho: Historical milestones and contemporary trends
- Section 3. Institutional framework International obligations, regional frameworks and national policy frameworks and legislation
- Section 4. Principles, Vision and Objectives
- Section 5. Cross-cutting governance and data management issues
- Section 6. Emigration for employment: Ensuring maximum protection of and quality conditions for Basotho migrant workers
- Section 7. Immigration for employment: Attracting and transferring strategic skills while enforcing equality of treatment
- Annexes

**Section 1** of the NLMP for Lesotho provides background to the policy development process and its methodology. The Government of Lesotho (GoL) has made migration a major theme of Lesotho's foreign and public policies, as reflected in historical bilateral labour agreements, and today in a range of key Lesotho policy documents, including National Vision 2020 and the National Strategic Development Plan 2012/13 – 2016/17. In 2015, with support from the International Labour Organization (ILO), the Ministry of Labour and Employment (MoLE) ordered the drafting of a National Labour Migration Policy (NLMP).

The final drafting, revision and validation of the NLMP was then pursued through a broad-based participatory and consultative process which was conducted in 2017 and 2018 with support from the International Organization for Migration (IOM), together with the development of additional instruments to prepare and support implementation of the policy. The NLMP should be read in conjunction with the Labour Migration Management Assessment (LMMA) which proposes an up-to-date diagnosis of labour migration from and into Lesotho and accompanied by the Plan of Action for Labour Migration presented in its Annex 3, which presents the implementation modalities of the NLMP.

**Section 2** reviews historical milestones and provides contemporary trends data on migration into and from Lesotho. The Kingdom of Lesotho has been shaped by labour migration and mobility, understood as temporary and permanent movement of persons across international borders for employment purposes, since the 19<sup>th</sup> century. For most of the 20<sup>th</sup> century, they made up a substantive share of the workforce on South African mines and farms and a key component of the migrant labour system. In the 1990s and 2000s, several political and economic changes occurred with significant implications for Lesotho's migrant workers.

The changes resulted in considerable reshaping of flows from Lesotho and have had consequences in terms of livelihood and social protection. These changes resulted initially from restructuring in the South African mines and the gradual phasing out of foreign labour with the adoption of the South African Mining Charter in 2002. Feminisation of migration, concentration of Basotho migrant workers in vulnerable sectors and occupations, together with the narrowing of legal avenues for labour migration and continued dependency on remittances to GDP have characterised emigration from Lesotho over the past twenty years. Simultaneously, increasing numbers of migrant workers from the region and Asia have followed investment flows into Lesotho as reflected in work permit issuance.

**Section 3** of the NLMP reviews the institutional framework. It first lists Lesotho's international obligations, and then summarises existing regional frameworks before presenting the strengths and weaknesses of national policy frameworks and legislation. Drawing on the LMMA, Section 3 identifies specific challenges in terms of labour immigration and emigration. Regarding labour immigration, challenges to be addressed are:

- Inter-ministerial coordination;
- The modernisation of the work permit system;
- Better protection of migrant workers in Lesotho through education, sensitization and training of workers and strengthened labour inspection.

Regarding labour emigration, identified challenges are:

- Inter-ministerial coordination;
- Regulation of recruitment of Basotho workers for employment abroad,
- Current services to Basotho migrant workers within MoLE;
- Skills acquisition; Return and reintegration into the labour market;
- The development of a national strategy and the strengthening of bilateral agreements aligned to international standards and Lesotho's employment priorities;
- Social protection and access to benefits and compensation;
- The absence of a diaspora policy.

**Section 4** spells out the Principles, Vision and Objectives of the NLMP. The policy is rooted in the principles of the Lesotho Constitution and the objectives of Vision 2020, the National Strategic Development Plan (II) as well as other relevant national policies and frameworks, in particular Lesotho's draft National Employment Policy and recently reviewed labour legislation. Its vision calls for the GoL to rely on robust frameworks and processes to ensure effective and efficient protection of Basotho migrant workers and their families throughout the migration cycle and supports quality bilateral labour agreements with countries subscribing to similar values and principles whilst enforcing the principles of equality of treatment between Basotho and migrant workers in Lesotho and attracting and retaining skills which will benefit Lesotho's economy and society.

**Sections 5, 6 and 7** propose three Key Areas of Intervention (KAIs), each organised around a policy diagnosis, strategic objectives and priority activities. **Section 5** is an overarching KAI which focuses on cross-cutting governance and data management issues. It proposes four priority activities on: Policy and Strategy, Governance and Operationalisation, Data, and Capacity-building.

**Section 6** deals with "Emigration for employment: Ensuring maximum protection of and quality conditions for Basotho migrant workers". It proposes six priority activities: Developing a new Bilateral Labour Agreements strategy; Promoting ethical recruitment; Effective support and complaint mechanisms; Strengthening social protection; Social welfare of migrant workers; Diaspora engagement policy.

**Section 7** deals with "Immigration for employment: Attracting and transferring strategic skills while enforcing equality of treatment". Its five main priority activities are: Reforming the work permit system; Strengthening the capacity of law enforcement agencies, including the labour inspectorate and the police; Improvement of condition of communication and integration between migrant and local workers in private sectors businesses; Social protection and welfare of migrant workers in Lesotho; and Inclusion of labour provisions in trade and investment agreements.

**Annexes** provide a glossary of key terms, a list of references and the National Plan of Action for Labour Migration.



## Section 1. A National Labour Migration Policy for Lesotho: Background of the policy development process

- 1.1 The **Kingdom of Lesotho has been shaped by labour migration and mobility**, understood as temporary and permanent movement of persons across international borders for employment purposes, since the 19<sup>th</sup> century. The legacy of the migrant labour system, which sent tens of thousands of Basotho workers to South African mines and farms, continues to influence Lesotho's society in multiple ways to date.
- 1.2 The Government of Lesotho (GoL) has made **migration a major theme of Lesotho's foreign and public policies**, as reflected in historical bilateral labour agreements, and today in a range of key Lesotho policy documents, including National Vision 2020 and the National Strategic Development Plan 2012/13 – 2016/17.
- 1.3 **Internationally and regionally**, the GoL has had a long-standing interest in international migration:
- Lesotho supports the **African Union's** determination to implement a **Free Movement Protocol** in the region (2017 Decision) and to implement its **Migration Policy Framework for Africa** (2006) through its **Joint Labour Migration Programme** (2015 Decision).
  - Lesotho has actively participated in the **Migration Dialogue for Southern Africa (MIDSA)**, an inter-governmental forum for policy dialogue on migration within the Southern African Development Community (SADC), since its inception in 2001 as well as in the **SADC Employment and Labour Sector (ELS) Ministerial and Technical meetings** which regularly deal with labour migration issues. The SADC ELS adopted a Labour Migration Policy Framework in 2014 which calls on Member States to adopt national labour migration policies by 2019.
  - In addition, Lesotho has ratified a range of **international agreements** pertaining to migration and migration-related matters, including the **1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families** which it ratified in 2005.
- 1.4 **At the bilateral level**, the Government of Lesotho entered into a first bilateral labour agreement with South Africa in 1973 and has since committed itself to discussing migration-related matters on the basis of memoranda of agreement regularly renewed with South Africa and discussed through the Joint Bilateral Commission of Cooperation (JBCC) between the two countries.<sup>1</sup>
- 1.5 The general priorities of the GoL, as expressed in several **national policy frameworks**, have also increasingly noted the important role to be played by labour migration in Lesotho's development path. In 2014, Lesotho developed a **National Employment Policy**, still in a draft form (March 2018) which considers employment abroad as a critical component of the country's national employment strategy (Section 2.8). The draft **National Labour Policy**, to be validated in 2018, has also identified labour migration as a strategy for employment creation and poverty

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<sup>1</sup> *National Vision 2020.*

eradication. The draft **National Human Resources/ Manpower Development Policy (NHRDP)**, to be validated in 2018, identifies the emigration of skilled labour out of the country as a major barrier to the attainment of development objectives and proposes concrete measures to reach out to the Lesotho diaspora.

1.6 In 2013, with support from the Africa Caribbean Pacific (ACP) Observatory and the International Organization for Migration (IOM), Lesotho drafted a **National Migration and Development Policy** which stresses the importance of aligning migration-related policy, legislative and institutional interventions to achieve developmental outcomes with international and regional standards and comparative benchmarks. This Draft National Migration and Development Policy proposes 13 domains in which to harness the developmental potential of migration for development:

1. Migration Policy, Legal and Institutional Framework
2. Migration Data Management
3. Labour Migration
4. Diaspora Engagement
5. Remittances
6. Skills Development and Retention
7. Informal Cross-border Trade
8. Migration and Health
9. Migration and Gender
10. Irregular Migration, Human Trafficking and Smuggling
11. Cross-Border Management
12. Internal Migration
13. Access to Social Security Benefits for Migrants and their Dependents

1.7 In 2015, with support from the International Labour Organization (ILO), the **Ministry of Labour and Employment (MoLE)** ordered the drafting of a **National Labour Migration Policy (NLMP)** whose main objectives should be:

- a. To ensure that governance of labour migration in Lesotho is in line with relevant international labour standards and good practices and adheres to the regional provisions on labour migration
- b. To safeguard all human rights of migrant workers within and outside Lesotho's territorial boundaries
- c. To promote employment and decent work through labour migration
- d. To ensure access to social security by migrant workers and their families
- e. To ensure that labour migration contributes to the development objectives of the economic development of Lesotho.

1.8 The **final drafting, revision and validation of the NLMP was then pursued through a broad-based participatory and consultative process** which was conducted in 2017 and 2018 with support from the International Organization for Migration (IOM), together with the development of additional instruments to prepare and support implementation of the policy. These instruments are:

- A Labour Migration Management Assessment (LMMA) providing a review of the most up-to-date data on labour migration into and from Lesotho for policy analysis and development;
- A training curriculum for labour migration management;
- A Plan of Action for the implementation of the Lesotho NLMP.

- Guidelines for the development of bilateral labour agreements and a model agreement for Lesotho;

1.9 The NLMP is divided into **seven Sections and three Annexes**. Its sections are:

- Section 1. A National Labour Migration Policy for Lesotho: Background of the policy development process.
- Section 2. Migration into and from Lesotho: Historical milestones, contemporary trends and dynamics.
- Section 3. Institutional framework: International obligations, regional frameworks and national policy frameworks and legislation.
- Section 4. The National Labour Migration Policy for Lesotho: Principles, Vision and Objectives.
- Section 5. Key Area of Intervention 1. Cross-cutting governance and data management issues.
- Section 6. Key Area of Intervention 2. Emigration for employment: Ensuring maximum protection of and quality conditions for Basotho migrant workers abroad.
- Section 7. Key Area of Intervention 3. Immigration for employment: Attracting and transferring strategic skills while enforcing equality of treatment.

The **Annexes** consist of:

- Annex 1: Glossary of terms
- Annex 2: List of references
- Annex 3: Plan of Action (TO BE CONFIRMED)

1.10 The **NLMP should be read in conjunction with the Labour Migration Management Assessment (LMMA)** for Lesotho which was conducted, drafted and validated in 2017. Section 2 on Historical milestones and contemporary trends and challenges and Section 3 on the Institutional framework consist of a summary of conclusions and data analysis presented in more detail in the LMMA.

1.11 The NLMP **deliberately avoids jargon, overly legalistic phrases and complex stylistic renderings to remain a policy instrument to be shared and owned by all in the interest of Basotho people**. It uses terminology defined in the Glossary of terms presented in Annex 1. These technical terms are based on internationally accepted definitions and standards or on definitions prevailing in Lesotho national legislation as specified either in the Glossary or in specific provisions of the policy. Each paragraph of the NLMP is numbered separately for ease of reading and referencing.

1.12 Sections 5 on Cross-cutting governance and data management issues, 6 on Emigration for employment and 7 on Immigration for employment each focus on a **Key Area of Intervention (KAI)** and provide a **policy diagnosis, strategic objectives and priority activities**. These three sections therefore follow a similar structure with the intention to create easy referencing and monitoring between directions provided in the **NLMP** and its implementation tool, the **Plan of Action presented in Annex 3**.

## Section 2. Migration into and from Lesotho: Historical milestones, contemporary trends and challenges<sup>2</sup>

- 2.1 As a mountain kingdom in the 19<sup>th</sup> century, Lesotho was a **refuge for populations from surrounding areas during pre-colonial and colonial conflicts**. With the discovery of ores in the second half of the 19<sup>th</sup> century and the intensification of commercial agriculture in the Free State province of South Africa, Basotho men started emigrating in large numbers. For most of the 20<sup>th</sup> century, they made up a **substantive share of the workforce on South African mines and farms and a key component of the migrant labour system** and conversely gave Lesotho the distinction of being one of the countries with the largest share of its workforce outside its borders.
- 2.2 In 1973, the GoL signed a **bilateral labour agreement with the Government of the Republic of South Africa** to provide a framework to the recruitment and welfare of Basotho workers employed in South Africa. This agreement was in use until 2006 when it was replaced by a memorandum of understanding (MoU) on cooperation between the two governments on labour issues. This MoU was renewed in 2013. Recruitment of Basotho miners was predominantly organised by The Employment Bureau of Africa (TEBA) which then became TEBA Limited.
- 2.3 In the **1990s and 2000s**, several political and economic changes occurred with significant implications for Lesotho's migrant workers. The changes resulted in considerable restructuring of flows from Lesotho and have had consequences in terms of social protection.
- 2.4 **Political and economic decisions in South Africa** are the first decisive factor. In 1995, the South African government offered access to permanent residence to 51,000 mine workers from across the region, and in 1996 to 175,000 general citizens from SADC under specific conditions. Although exact numbers are unknown, a few thousand Basotho citizens benefitted from these measures. In 2003, the adoption of the Mining Charter in South Africa confirmed the decision to phase out foreign labour on South African mines. With the retrenchment of 83,000 Basotho migrant mineworkers employed in South Africa between 1987 and 2013, many Basotho households, particularly in rural Lesotho, have become more vulnerable. In 2016, following an agreement between the ministries of Home Affairs of the two countries, a special dispensation for Basotho nationals was granted by the South African government, affording over 90,000 Basotho applicants four-year temporary residence permits in South Africa with the right to work.
- 2.5 **Economic dynamics in the Lesotho labour market** itself should also be taken account of. In the early 2000s, Lesotho's textile industry, which had benefitted from the protection of the U.S. African Growth and Opportunities Act (AGOA) and is the largest employer of female workers in the country, was hit by the slump in demand that followed the Euro-Dollar crisis

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<sup>2</sup> This section draws extensively on analysis and conclusions reached in the 2017 Labour Migration Management Assessment (LMMA) which contains detailed references. For ease of reading, the section has been simplified and only key findings have been kept.

in the mid-2000s, the rapid appreciation of the South African Rand and South Africa's decision to lower import tariffs on Chinese manufactured goods leading to the closing of many factories. While numbers of Basotho miners to South Africa dwindled, so did jobs in the textile sector leading increasing numbers of Basotho females to seek employment in South Africa, as domestic workers and to a lesser extent, as farm labourers.

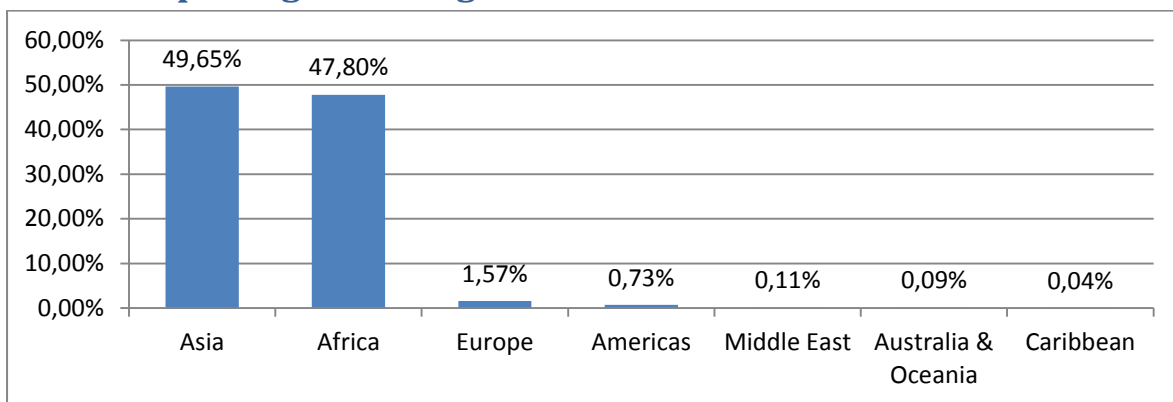
- 2.6 These various internal and external changes have resulted in **contemporary trends and challenges** which should be understood to craft a new national strategy regarding labour migration management.
- 2.7 Notwithstanding the ban by the apartheid government, the **migration of female low-skilled workers** to South Africa had started as early as the 1980s. Its increase in the 2000s reached significant levels: By 2006, female migrants constituted 30 per cent of total Basotho migrant workers in South Africa. This female migration to South Africa has been mostly undocumented exposing these workers to precarious conditions of employment and living between the two countries.
- 2.8 **Wage differentials** with South Africa of about 1 to 4 are considered a major factor of South Africa's attractiveness, particularly in times of crisis and record high rates of unemployment currently estimated at about 27.42 per cent in Lesotho (BoS, 2017).
- 2.9 In addition to low-skilled emigrants, Lesotho also experiences **structural emigration of its highly-skilled** towards South Africa and, to a lesser extent, Organization for Economic Cooperation and Development (OECD) countries. According to the World Bank, one third of Lesotho-born physicians have emigrated and significant numbers of Lesotho nurses are known to have been recruited in the United Kingdom and the United States.
- 2.10 For decades, **remittances from migrants**, through both formal and informal channels, continue to be a vital source of income in Lesotho even if this also creates a form of dependency. In 2016, they still amounted to 15.1 per cent of the country's GDP (World Bank 2016). While remittance channels are not particularly costly from South Africa to Lesotho thanks to multiple operators, their impact on poverty alleviation and development in communities of origin remains very limited. They continue to play a vital role for at-risk households but do not have the ability to turn around the structural causes for which people migrated in the first place.
- 2.11 According to **Census 2016 data**, there are just over 179,000 Basotho household members currently outside of the country, mostly in South Africa (BoS 2017). More regular and targeted surveys would help gain more accurate knowledge of the Basotho diaspora.
- 2.12 On the **immigration side**, according to Census 2016, **foreign workers in Lesotho** are 12,300, mostly from South Africa (over 50%), Zimbabwe and to a lesser extent China. They reside mostly in Maseru, Leribe and Berea. While a third of them are children, the majority of the remainder are in their 20s to 40s, and majority are males. The majority of them are in elementary occupations and services and sales, with another group as plant machine operators and assemblers. There is also a presence of Congolese migrants from the

Democratic Republic of Congo with refugee status, several of whom are in the medical profession.

2.13 While there was a Chinese presence as early as the 19<sup>th</sup> century, **Chinese migrants**, from both the People’s Republic of China and Taiwan, have arrived in larger numbers over the past fifteen years following the boom in textile and apparel manufacturing which was financed almost wholly by investors from Taiwan, who have brought in skilled workers and managers from the mainland. Recent data reflects their presence on an almost equal basis with African immigrants.

2.14 Figure 1 below illustrates the distribution of work permits per region of origin.

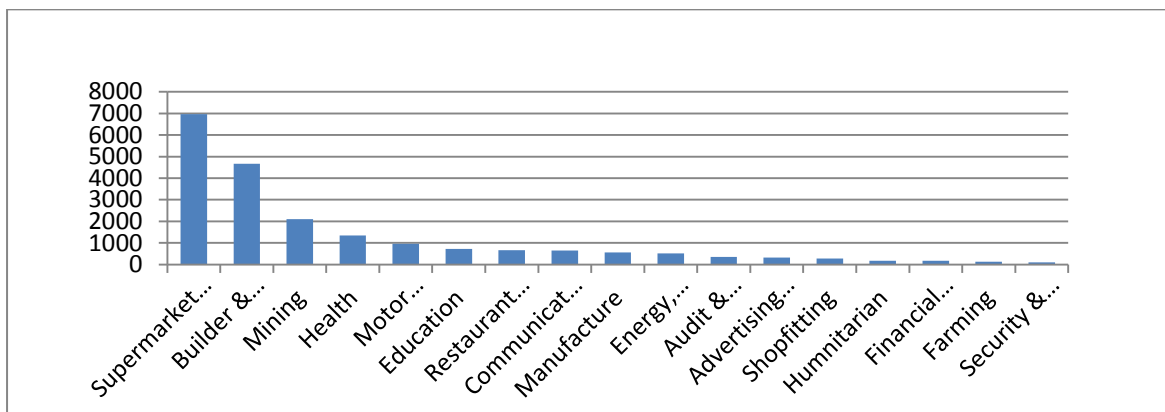
**Figure 1. Distribution of work permits issued by MoLE between 2009 and 2015 per region of origin.**



Source: Computed by Letsie Nkareng for the draft National Labour Migration Policy from work permits statistics available from MoLE.

Figure 2 below illustrates the distribution of work permits per industrial sector which reveals a significant presence of migrant workers in the supermarket and retail sector, followed by building and construction, and mining which remains small but is growing rapidly with the expansion of diamond mining (Lesotho Central Bank, 2015). A close monitoring of fluctuations in occupation types and industrial sectors would allow better policy management.

**Figure 2. Work permits issued by the Lesotho MoLE per industrial sector, 2009-2015.**



Source: Computed by Letsie Nkareng for the draft National Labour Migration Policy from work permits statistics available from MoLE.

## Section 3. Institutional framework: International and bilateral obligations, regional frameworks and national policy frameworks and legislation

### 3.1 International obligations

3.1.1 At **global, regional, sub-regional and bilateral levels**, multiple standards and frameworks are either binding (standards) or provide guidance regarding the management and governance of labour migration by Lesotho. This section reviews all such relevant international standards and frameworks to which Lesotho is party and which the NLMP will operate within.

3.1.2 At **global level**, labour migration falls under at least three sets of international standards: human rights, labour rights and specific migrant rights:

- **UN international human rights treaties and conventions,**
- **United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols,**
- **ILO conventions.**

Lesotho provides regular information on domestication and enforcement through the reporting mechanisms of each of these international instruments.

3.1.3 Lesotho is one of very few African Member States to have ratified the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)** (1990). The ICRMW is the **only UN instrument of specific relevance to migrant workers**. It commits Lesotho to protection of migrant workers and members of their families regardless of their migratory status and provides comprehensive guidance regarding their fundamental human rights, rights at work, and social rights. The convention addresses the needs of both national workers employed abroad and foreign workers employed in Lesotho.

3.1.4 **Other international human rights treaties and conventions** ratified by Lesotho are of importance in terms of protecting migrants from discrimination and exploitation on grounds other than their non-national status. These international treaties and conventions are:

- Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- International Convention on the Rights of the Child (CRC)



3.1.5 Another key set of instruments ratified by Lesotho are the **United Nations Convention against Transnational Organized Crime (UNTOC)** (2000), and its protocols as the main international instruments in the fight against transnational organized crime and more specifically trafficking and smuggling. The Convention is supplemented by three Protocols, which target specific areas and manifestations of organized crime:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Protocol against the Smuggling of Migrants by Land, Sea and Air;
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Their ratification by Lesotho in 2004 has allowed domestication in national legislation.

3.1.6 The **Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children**, is the first global legally binding instrument with an agreed definition on trafficking in persons. The intention behind this definition is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

3.1.7 The **Protocol against the Smuggling of Migrants by Land, Sea and Air** deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. The Protocol provides a definition of smuggling of migrants and aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process.

3.1.8 In addition to the protection of migrant workers' basic human rights enshrined in UN conventions, migrant workers are protected more specifically by **ILO fundamental and technical conventions, protocols and frameworks**. While Lesotho has not ratified the ILO's two specific technical instruments on the protection of migrant workers, Conventions Nos.97 and 143, ILO instruments remain pertinent at the following levels:

- Firstly, in terms of the core and technical conventions ratified by Lesotho since all instruments apply to all workers, including migrant workers;
- Secondly, in terms of ILO protocols and frameworks which also apply to all workers, including migrant workers and which include among others the Declaration on Fundamental Rights at Works (1998), the Protocol on Forced Labour (2014) and the Decent Work Agenda (2015);
- Thirdly, in terms of non-binding frameworks specific to migrant workers which may guide the policies of Lesotho, in particular:
  - The 2006 Multilateral Framework on Labour Migration
  - The 2014 Fair Migration Agenda 2014
  - The 2016 General Principles and Operational Guidelines for Fair Recruitment

- The 2016 General Guidelines on the Integration of Refugees and Other Displaced Persons in the Labour Market.

3.1.9 Lesotho participated in the consultations for the United Nations Global Compact for Safe, Orderly and Regular Migration (GCM) and the negotiations leading to the **2018 Intergovernmental Conference for Safe, Orderly and Regular Migration** when the GCM will be finally adopted. Lesotho will study with much attention **the range of principles, commitments and understandings among Member States regarding international migration in all its dimensions** which will be adopted in the GCM.

3.1.10 Lesotho supports the **2030 Agenda for Sustainable Development**<sup>3</sup>, the **Addis Ababa Action Agenda of the Third International Conference on Financing for Development (2016)**,<sup>4</sup> and the **Declaration of the High-level Dialogue on International Migration and Development adopted in October 2013**.<sup>5</sup>

3.1.11 Lesotho’s support to the **2030 Agenda for Development** means that it will report on the global goals and targets set out to report on progress regarding the **Sustainable Development Goals (SDGs)**. As part of its National Labour Migration Policy, Lesotho will report on the following **relevant SDGs**:

Primary SDGs	
<i>8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</i>	
	8.7 Take immediate and effective measures to eradicate forced labour, <u>end modern slavery and human trafficking</u> and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms
	8.8 Protect labour rights and promote safe and secure working environments for all workers, <u>including migrant workers</u> , in particular <u>women migrants</u> , and those in precarious employment
Secondary SDGs	
<i>5. Achieve gender equality and empower all women and girls</i>	
	5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including <u>trafficking</u> and sexual and other types of exploitation
<i>10. Reduce inequality within and among countries</i>	
	10.7 Facilitate <u>orderly, safe, regular and responsible migration and mobility of people</u> , including through the implementation of <u>planned and well-managed migration policies</u>
	10.c By 2030, reduce to less than 3 per cent the <u>transaction costs for migrant remittances</u> and eliminate remittance

<sup>3</sup> Resolution [70/1](#).

<sup>4</sup> Resolution [69/313](#), annex.

<sup>5</sup> Resolution [68/4](#).

	corridors with costs higher than 5 per cent
<i>17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development</i>	
	17.18 By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, <u>migratory status</u> , disability, geographic location and other characteristics relevant in national contexts

### 3.2 Regional frameworks

3.2.1 At **regional level**, Lesotho adheres to the principles emphasised by the African Union (AU) in the following key policy documents and decisions:

- Abuja Treaty (1991)
- Migration Policy Framework for Africa (2006) and the Revised Migration Policy Framework for Africa (2017)
- African Common Position on Migration and Development (2006)
- Joint Africa-EU Ouagadougou Action Plan to Combat Trafficking (2007)
- Joint Labour Migration Programme (JLMP) (2015)
- Agenda 2063 and First Ten-Year Implementation Plan
- Protocol on the Free Movement of Persons in Africa and its Action Plan and Passport (2018) <sup>6</sup>

3.2.2 At the level of the **Southern African Development Community (SADC)**, Lesotho will strive to promote the principles of the following protocols, codes and frameworks through its NLMP:

- SADC Revised Regional Indicative Strategic Development Plan (2015-2020)
- SADC Protocol on the Facilitation of Movement of Persons (2005)
- SADC Code on Social Security adopted in 2008 and more specifically its Article 17 on Migrants, Foreign Workers and Refugees <sup>7</sup>;
- SADC Declaration on Tuberculosis in the Mining Sector (2012) and Action Plan
- Harmonised SADC Regional Strategic Plan on Combating Illegal Migration, Smuggling of Migrants and Trafficking in Persons (2010) and 10-Year SADC Strategic Plan of Action on Combating Trafficking in Persons, especially Women and Children (2009-2019).
- SADC Labour Migration Action Plan 2013-2015, renewed for 2016-2019 and SADC Labour Migration Policy Framework (2014);
- SADC Protocol on Employment and Labour (2014) and more specifically Article 19 on Labour Migration and Migrant Workers

3.2.3 Lesotho will also continue its active participation in the MIDSA regional Consultative Process.

<sup>6</sup> Not enforced at the time of drafting this policy.

<sup>7</sup> The SADC Code on Social Security promotes bi- or multilateral agreements, inclusion of migrant workers in national social security schemes, equality of treatment with nationals, an aggregation of insurance periods and the maintenance of acquired rights and benefits between similar schemes in different Member States, portability of benefits across member states, access to coverage for self-employed workers, access to minimum protection for irregular workers, and extension of social security to refugees

### 3.3 Bilateral obligations

3.3.1 Lesotho entered into several **bilateral agreements with South Africa, in 1973, 2006 and 2013**. These agreements changed over time in terms of content and structure. While the 1973 agreement consisted in organising the recruitment of Basotho workers in South Africa, the 2006 and 2013 agreements were aimed at facilitating cooperation between the two countries on labour matters broadly speaking, which included addressing labour migration issues such as outstanding benefits and compensation claims.

3.3.2 The agreements signed with South Africa **did not follow any model aligned to international standards**. The Labour Migration Management Assessment (LMMA) conducted in 2017 concluded to the fact that they were **not a satisfactory type of agreement for maximum protection of Basotho migrant workers** and that a model agreement drawing on existing international standards should be developed to guide Lesotho's attempts at enforcing better protection of its workers in employment abroad.

3.3.3 Strategically, the LMMA concluded to the **negative impact of decades of recruitment and placement of Basotho workers in South Africa**. The deficiencies of the successive agreements with South Africa were found to have led to:

- Minimum impact on poverty reduction,
- High impact on the burden of occupational disease to be borne by workers' households and the Lesotho public health system, in particular silicosis whose prevalence stands among the highest worldwide,
- Quasi-nil effects in terms of developmental traction for lack of accompanying measures such as financial education, investment in welfare and education, etc.

3.3.4 Review of the recently implemented **Lesotho Special Permit project** between Lesotho and South Africa, while addressing urgent needs in terms of regularisation, pointed to limitations in terms of offering durable solutions to Basotho migrant workers in South Africa and inter-ministerial coordination between MHA, MoLE and MFAIR. These limitations confirmed the need to incorporate regularisation of undocumented Basotho migrant workers and the search for durable solutions under bilateral discussions and agreement.

3.3.5 The principles of a reformed policy of bilateral labour agreements for Lesotho are enunciated in Section 6.

### 3.4 National policy frameworks and legislation

3.4.1 Lesotho already relies on a broad set of laws and frameworks regarding the management of labour migration into and from the country. The 2017 LMMA conducted a **review and mapping of these existing laws and frameworks** to assess their relevance and possible weaknesses against at least four types of **indicators**:

- National policy priorities expressed in current national policy documents,
- Emerging trends and needs of the population and the economy of Lesotho,
- Binding international obligations,
- Directions provided by regional (AU and SADC) frameworks.

3.4.2 This section provides a concise **summary of the conclusions reached through the LMMA** in terms of the legal and policy apparatuses in place for the regulation of labour immigration and emigration while new policy directions will be proposed in Sections 5, 6 and 7.

3.4.3 **LABOUR IMMIGRATION** into Lesotho is regulated directly or indirectly through three sets of national legislation:

- Legislation on immigration, which regulate right of access to and residence in Lesotho;
- Legislation on access to employment for foreign nationals, which forms part of the Lesotho Labour Code and is accompanied by specific sector-based legislation;
- Legislation on social security (Social security draft Bill portability and coordination clauses)
- Legislation on asylum.

3.4.4 **Key conclusions** regarding legislation regulating the various dimensions of **labour immigration** into Lesotho can be summarised as follows:

- **Immigration to Lesotho** is regulated by the Aliens Control Act of 1966. The Act deals with two categories of permits to immigrants (indefinite and temporary permits), entry and departure from Lesotho, removal following unlawful entry, registration of immigrants, the expulsion of foreign citizens, and offences. A recommendation of the 2013 draft Migration and Development Policy is to draft a new act taking account of emerging trends and needs.
- Regarding **foreign nationals' access to employment in Lesotho**, this is regulated under the Lesotho Labour Code Order and the Pension's Proclamation of 1964. The Order entrenches the principles of equality of treatment between national and foreign workers except for the teaching profession reserved to Basotho nationals (Teachers' Pensions Act of 1994). The Order:
  - talks to labour court; protection of wages; health, safety and welfare at work; personal development; employment of women; labour agents; contracts of foreign service, employment of non-nationals; trade unions; trade unions and employers' organisations; forced labour and unfair labour practices.
  - domesticates international labour conventions which Lesotho is party to. Importantly, it explicitly prohibits discrimination based on nationality.
  - establishes the Labour Court as the jurisdiction to arbitrate litigation between employers and employees operating in Lesotho regardless of nationality.
  - regulates the issuance of work permits based on a labour market test but which does not rely on regularly updated skills-in-demand lists and outputs from education institutions.
- **Asylum** is regulated by the Refugee Act of 1983. However, the Act does not grant refugees and asylum seekers the right to work, nor does it explicitly forbid it. In practice, refugees are allowed to work but not asylum seekers.
- **Portability of benefits ensured in social security draft bill:** Should extend to foreign nationals and to Basotho migrant workers in other countries.

3.4.5 In terms of **institutional structures and inter-ministerial coordination of labour immigration**, the NLMP should address the following challenges:

- **Inter-ministerial coordination** particularly between MoLE, CSO and MHA;
- The **modernisation of the work permit system** located under the authority of the Labour Commissioner, in terms of strategy (skills needed in the country to avoid duplication and ensure skills transfer) and processing (to ensure a transparent, fast-tracked process);
- **Better protection of migrant workers in Lesotho** through education, sensitization and training of workers and strengthened labour inspection, arbitration, mediation and conciliation to avoid a growth in situations of exploitation and abuse related to termination of contract, non-payment of overtime, poor conditions of work.

3.4.6 **LABOUR EMIGRATION from Lesotho** is a fundamental right recognised by the Constitution of Lesotho as well as the UDHR ratified by Lesotho. In addition, several pieces of national legislation protect the fundamental rights of Basotho emigrants prior to their departure from the country.

3.4.7 **Key conclusions** regarding national legislation regulating the various dimensions of **labour emigration** from Lesotho can be summarised as follows:

- The Passport and Travel Documents Act of 1998 guarantees the right to **passports and other traveling documents as well as their authenticity**.
- The Anti-Trafficking in Persons Act of 2011 defines **trafficking and smuggling**, and specifies the conditions for the identification, care and protection of victims, enforcement, as well as public awareness. It also establishes a fund to care for victims of trafficking. The 2015 Regulations have been adopted for implementation of the Act. An evaluation of their performance would usefully inform the NLMP and Action Plan. -According to the 2016 Department of State Report (Office to monitor combat trafficking in persons), Lesotho is still a tier 2 country, which means that “the Government of Lesotho does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.” (US Department of State, 2016).
- Lesotho also took steps in **protecting migrant workers in and outside Lesotho through several acts**. The Deferred Pay Act no.18 of 1974 was adopted with a view to maximising the benefits of labour migration for Lesotho. The Deferred Pay Act was repealed in 1979, and amended twice, in 1989 and 1990 to update the investments that can be made with the funds and the percentage of wages that is deferred. The 1974 Act was later repealed by the Deferred Pay Act of 2011, to give effect to opening of individual bank accounts as opposed the bank pool account system that was in place at the time.
- The Labour Code regulates the **operation of labour recruiting agents** and establishes a **licensing system with annual renewal**. The Labour Commissioner is the licencing authority. Different conditions of eligibility have been set by the MoLE. Among others, a security deposit is requested and evidence of adequate training and background to safeguard the health and welfare of the persons to be

recruited. Record keeping of recruiting operations is compulsory. The code further regulates the type of transport arrangements that are allowed. Responsibility for acclimatization and immunization is explicitly vested in the employer.

- The **Labour Code is however silent on several key dimensions of the migration cycle** such as: pre-departure sensitization and training of migrant workers, role of Public Employment Services (PES), support services throughout the duration of the contract, assistance to smuggled and trafficked migrant workers, conciliation mechanisms, financial education and remittance channels, reintegration into the Lesotho labour market (employment orientation and services) upon return, portability of pension and compensation rights. The weakness of the Code is its silence on issues of contributions into and access to social security by migrants and portability of such contributions back into Lesotho.
- Regarding **contract vetting**, the Labour Code provides that quadruplicate copies of the contract be attested by the MoLE and registered after ensuring that the recruit fully consents to the contract. Medical examination is also compulsory but there is no indication of how frequent such examination should be throughout the duration of the contract, in particular upon termination which does not allow for detection of occupational diseases.
- Existing **labour attachés**, thus far designated as labour representatives, were consular officers with a labour function who initially came from MoLE. However, the current status of labour attachés seems unclear in law and would require legislative reform and clarification under the Labour Code. There is also no specialised training curriculum for this function, nor is there any particular induction, description of duties and responsibilities, or manual of standard operating procedures. The Ministry of Foreign Affairs and International Relations (MFAIR) indicates current staffing of five such attachés (called honorary consuls) in South Africa located in Pretoria, Durban, Klerksdorp, Welkom, and Johannesburg.
- **Diaspora Engagement Policy**: Currently, the MFAIR does not have a Diaspora Engagement Policy which results in a very traditional and ineffective approach towards the engagement of Basotho abroad. It is therefore highly recommended for the MFAIR to consider the development of Diaspora Engagement Policy to explore incentives that may attract investment and skills transfer back into the country.

3.4.8 In terms of **institutional structures and inter-ministerial coordination of labour emigration**, the NLMP should address the following challenges:

- **Inter-ministerial coordination**, particularly between MoLE and MFAIR
- The **regulation of recruitment of Basotho workers for employment abroad** should be strengthened in terms of:
  - The legislation to address gaps in the regulation of private recruiting agents,
  - The professionalisation of these private agents and the development of partnerships with MoLE,
  - The prevention against trafficking, smuggling, forced labour and forms of fraudulent recruitment, and in terms of better coordination between units in charge of vetting contracts;

- Pre-departure training and sensitization of migrant workers to the conditions of work and labour legislation in the country of destination.
- **Current services to Basotho migrant workers within MoLE:** Services available to Basotho migrant workers within the MoLE are currently too limited due to resource constraints and also an overemphasis on assistance to workers covered under the bilateral agreements with South Africa. Expansion of services in the form of pre-departure sensitization, extended assistance with compensation claims and access to benefits, assistance in situations of dispute are three areas where additional resources are needed.
- **Skills acquisition** through training and internships validated by certificates is another area for further development.
- **Return and reintegration of migrant workers into the Lesotho labour market** are stages in the migration cycle which are currently neglected with only a few organisations, only focused on former mine workers, assisting returned workers. Financial education, investment of savings in welfare, education and training projects as well as productive investment through access to micro-loans should be offered in a structure and professional way in order to ensure positive reintegration of returned migrant workers.
- **The adoption of a national strategy and the strengthening of bilateral agreements aligned to international standards and Lesotho's employment priorities**, including the establishment of a chain of protection from departure to destination through the increase and professionalisation of labour attachés, and the reduction of humiliation and harassment linked to border control.
- **Social protection and compensation for occupational diseases and injuries:** Exhaustion of the number of outstanding cases (pensions and compensation for occupation injury and disease) should become a priority objective and requires the expansion, professionalisation and resourcing of the Migrant Workers Liaison Unit within MoLE with a target plan in partnership with relevant civil society organisations.
- **In adopting a Diaspora policy**, the MFAIR should work closely with the MoLE to include aspects of labour migration in the Diaspora policy such as:
  - Research and profile the diaspora, through evidence-based and analytical research and the inclusion of the enumeration of the diaspora in national censuses and inter-census surveys.
  - Create a conducive environment for the diaspora to (i) remit payments; (ii) invest; (iii) be otherwise involved in the development of Lesotho via short- to medium-term engagement and skills/knowledge transfers; and (iv) return to Lesotho.
  - Incentivise the diaspora to transfer skills to Lesotho thorough short-/medium-term work assignments, mentoring and consultancies.
  - Advocate for dual citizenship to allow the diaspora to effectively participate in the development of Lesotho.



## Section 4. The National Labour Migration Policy for Lesotho: Principles, Vision, and Objectives

### 4.1 Principles:

- 4.1.1 The NLMP is rooted in the **principles of the Lesotho Constitution and the objectives of Vision 2020, the National Strategic Development Plan (II)** as well as other relevant national policies and frameworks, in particular Lesotho's **National Employment Policy and reviewed labour legislation**.
- 4.1.2 The National Labour Migration Policy (NLMP) will be a **critical component of Lesotho's national policies** and will support national efforts to tackle poverty and inequality, create employment, ensure decent conditions of work, enhance the country's skills pool and reduce the burden of disease to realise sustainable development.
- 4.1.3 The NLMP adopts a **rights-based approach to the protection of all workers employed in Lesotho and the protection of Basotho workers and their families** in agreement with Lesotho's international obligations, regional and SADC commitments, as well as obligations under its national labour legislation which is guided by the principle of equality of treatment between workers.

### 4.2 The Vision of the NLMP is the following:

The Government of Lesotho relies on robust frameworks and processes to ensure effective and efficient protection of Basotho migrant workers and their families throughout the migration cycle and supports quality bilateral labour agreements with countries subscribing to similar values and principles whilst enforcing the principles of equality of treatment between Basotho and migrant workers in Lesotho and attracting and retaining skills which will benefit Lesotho's economy and society.

### 4.3 Objectives of the NLMP:

- 4.3.1 In line with the National Vision 2020, the National Strategic Development Plan (II), the Draft Migration and Development policy and Lesotho's Decent Work Country Program, the **overarching objectives of the Government of the Kingdom of Lesotho in adopting this NLMP** are:
- To ensure that governance of labour migration in Lesotho is in line with relevant international labour standards and good practices and adheres to the regional provisions on labour migration;
  - To safeguard the human rights of migrant workers and their families within and outside Lesotho's territorial boundaries;
  - To promote decent work and employment through labour migration;
  - To ensure access to social security for migrant workers and their families;
  - To ensure that labour migration contributes to the development objectives of the economic and societal development of Lesotho.

4.3.2 The remaining three sections of the NLMP propose three Key Areas of Intervention (KAIs) designed to cover as comprehensively as possible all areas assessed as critical while conducting the LMMA. These KAIs will be supported by a National Plan of Action for Labour Migration which is presented in Annex 3.

## Section 5. Cross-cutting governance and data management issues

### 5.1 Policy diagnosis

5.1.1 To date, the absence of a national labour migration policy meant that labour migration regulation and management activities were conducted in silos, with limited resources, and without serving a coordinated strategy. There is a need to put an end to this erratic management of labour migration by ensuring consistent governance, strategy, and inter-ministerial coordination in a sustainable manner.

5.1.2 **Turning around this situation** implies:

- Clear identification of priorities and strategies under consistent supervision of the technical ministry spearheading the policy,
- A functional division of labour and strengthening of inter-ministerial coordination,
- Strengthening of partnerships between Government, social partners and relevant stakeholders,
- Strengthening of data collection tools at the service of policy analysis and monitoring and evaluation,
- Strengthening of Government and social partners' capacity to manage and regulate labour migration.

### 5.2 Strategic objectives

5.2.1 **Values, principles and policy coherence:** In terms of governance of labour migration, the NLMP upholds the values of the Lesotho Constitution, labour legislation, the country's international obligations and commitments to regional frameworks. The new principles on which the NLMP is built will be consistently disseminated across other national policies and frameworks.

5.2.2 **Method:** The overall governance of labour migration in Lesotho is organised in a transparent, inclusive and efficient manner, mindful of social dialogue and accountability mechanisms.

5.2.3 **Data for policy-making:** The GoL and all relevant stakeholders rely on regularly updated and publicly available labour migration data, aligned to international and SADC standards as well as national labour market information indicators, for policy analysis, and monitoring and evaluation of the NLMP.

5.2.4 **Capacity-building:** Government staff, social partners and other relevant stakeholders are competent in international labour migration standards and trained in delivering relevant services efficiently and effectively to the general public, Basotho migrant workers and their families throughout the migration cycle, migrant workers in Lesotho, employers of migrant workers, public employment services and private recruiting agencies.

### 5.3 Priority activities

5.3.1 **Policy and strategy:** The first set of priority activities under this KAI will consist of the definition of policy priorities, overall coherence, mainstreaming into other national policies on the basis of the principles, vision and general objectives of the NLMP. These are to a large extent covered through the development and validation processes of the NLMP and its National Plan of Action but regular adjustments will be necessary over time.

5.3.2 **Governance and operationalisation:** General review and restructuring of the legislative, institutional and operational structures on which labour migration management relies should be undertaken. This reform will cover the following technical areas:

- *Institutional frameworks:* Audit of the Migrant Workers Liaison Unit; Audit of the Work Permits Section of the National Employment Services; Establishment of an advisory committee on labour migration to strengthen governance and inter-ministerial coordination; Liaising with the National Consultative Committee on Migration to ensure synchronisation with draft Migration and Development policy; Establishment of a framework to regulate the recruitment industry, bring it up to international standards and curb recruitment malpractice; Strengthening of services to migrant workers in diplomatic missions;
- *Legislative and policy frameworks:* Gap analysis of the Labour Code and related legislation to align them to Lesotho's international obligations and in general, strengthen the protection of Basotho migrant workers and entrench more consistently the principle of equality of treatment between nationals and migrant workers in Lesotho; Mainstreaming of the principles and objectives of the NLMP in key national policy documents, such as the reviewed Labour Code (National Labour Law Review), NSDP II, National Labour Policy; Gap analysis of Labour Code and National Labour Law Review regarding the regulation of Private Employment Agencies (PEAs);
- *International and regional obligations:* Production of studies and development of advocacy plans for the ratification of relevant ILO technical conventions (Nos. 97 on Migration for Employment; 143 on Migrant Workers, 157 on Maintenance of Social Security Rights, 181 on Private Employment Agencies, 189 on Domestic Workers); Development of lobbying strategies at Government and social partners and civil society organisations levels to support ratification of these instruments and ICRMW among SADC member states; Ratification of the SADC protocol on the Facilitation of Movements of Persons (2005) and the SADC Protocol on Employment and Labour (2014);
- *Regulatory framework:* Development of a skills-in-demand list based on regular collection of data and linked to the labour market information system; Development of clear guidelines for skills transfer plans; Review of current data on trafficking in persons and the implementation of National Anti-Trafficking in Persons Strategic Framework and Action Plan (2011) with a view to strengthening prevention and prosecution mechanisms;

- *Social dialogue and consultative framework*: Ensure regular programming of labour migration issues including BLA negotiation and monitoring in national social dialogue such as National Advisory Committee on Labour (NACOLA); Inclusion of social partners in governance and consultative mechanisms.

5.3.3 **Data:** The Bureau of Statistics (BoS), the Ministry of Home Affairs (MHA), the Ministries of Justice and Police, and MoLE should establish a joint structure responsible for the regular collection, compilation, harmonisation and analysis of labour migration data and their broad dissemination; Publication of regular reports on an online platform; Organisation of training of data users.

5.3.4 **Capacity-building:** MoLE and the Ministry of Education in partnership with national academic institutions to work in partnership to develop capacity-building programmes for Government staff, social partners and relevant stakeholders to raise the general knowledge and understanding of international labour migration standards and national Labour Code regulations regarding labour migration and strengthen capacity through the acquisition of robust standard, analytical and operational labour migration management skills.

## Section 6. Emigration for employment: Ensuring maximum protection of and quality conditions for Basotho migrant workers abroad

### 6.1 Policy diagnosis

6.1.1 The LMMA conducted in 2017 and the successive evaluation and validation workshops coordinated under the technical working group of the IOM on labour migration have pointed the **following historical lessons**:

- The BLAs with South Africa and the organisation of the migrant labour system more broadly has worked mostly to the advantage of South African mining houses with little consideration for the well-being of Basotho workers and their families or the long-term benefit of the country of origin;
- The burden of occupational diseases (tuberculosis, silicosis, asbestosis) and injuries has been massive and continues to weigh heavily on Lesotho's resources;
- A sense of weak bargaining position and lack of strategic approach from the GoL at the time of negotiating these agreements resulted in very negative terms of the agreements signed over time leading to a vicious circle of dependency on remittances and employment exacerbating Lesotho's broader dependency vis-à-vis South Africa;
- The unpreparedness and lack of resources of technical ministries in Lesotho resulted in very limited accompanying measures to buffer the most negative consequences of labour migration on returned workers and households left behind in terms of assistance with outstanding benefits, access to pension rights and compensation claims; medical and psycho-social assistance; financial education and investment of income in welfare, education and productive investments, etc.

6.1.2 In addition, due to profound socio-economic and political changes in the region and beyond and given the demographic, educational and geographical conditions of Lesotho, available data point to **current challenges which should be urgently addressed**:

- The diversification of labour migration to South Africa in terms of:
  - Migrant profiles with feminisation and age,
  - Industrial sectors of employment: Domestic work, seasonal agriculture, transport, services;
  - Geographical areas of destination: Western Cape, Gauteng, smuggling to distant countries such as New Zealand;
  - Precarity of status and conditions: Irregular migration and deportation, illegal work, exploitative sectors such as sex work and illegal mining;
- Another emerging trend is the suspected increase in trafficking and smuggling as well as situations of forced labour, even if additional data are needed;
- Fraudulent recruitment practices are reported to be high and the current regulatory system in place has been considered insufficient in terms of checks and alignment to international best practice;

- Education and training opportunities abroad for the youth are too limited, in terms of the volume and allocation of bursaries;
- Systems of recognition of qualifications, competencies and prior learning, particularly in vocational training between Lesotho and its SADC neighbours remain too weak resulting in too many Basotho migrant workers returning without any proof of skills acquisition.
- Opportunities for Basotho highly, semi- and low-skilled job seekers for employment abroad remain too few, particularly in terms of opportunities available through BLAs and vetted by Government.
- The current network of labour attachés in diplomatic missions is too weak and inadequate in terms of the diversification of needs described above.

### 6.1.3 Turning around this situation implies that:

- Lesotho will urgently seek to **exhaust outstanding benefit, pension and compensation claims** and establish an efficient, sustainable services unit to assist ex-mine workers and other workers in need of such assistance;
- Lesotho commits to pursuing a **strategy of placement of its workers abroad** for employment based on a clear set of principles, goals and protective instruments, including education and training opportunities.
- This strategy has at least **two broad implications**: 1. Modernisation and professionalisation of placement, vetting, recruitment regulation, and accompanying services within the MoLE; 2. The adoption of a radically new approach in terms of BLAs seeking to entrench protection of migrant workers and broadening of employment, education and training opportunities as priorities.
- This placement strategy will be combined with a **range of services to migrant workers which will ensure protection and accompanying of workers throughout the migration cycle**, including return and reintegration into the labour market.
- The **chain of protection, particularly in the country of destination**, will be **reviewed, strengthened and professionalised** through a stronger partnership between MoLE and MFAIR.

## 6.2 Strategic objectives

6.2.1 **Values, principles and policy coherence**: Lesotho's main objective in terms of labour emigration is to **move from a situation of dependency and survival emigration in poor conditions to a situation of regulated, quality labour mobility** in which Basotho job seekers are presented with a wider range of opportunities and accompanied throughout the migration cycle. This new approach is based on **two essential principles**: 1. Ensuring maximum protection of migrant workers to avoid an increase in irregular migration, trafficking and situations of abuse and exploitation; 2. Harnessing the developmental potential of labour migration to the benefit of Lesotho's socio-economic development.

6.2.2 **A new BLA strategy**: The GoL, and in particular its MFAIR and MoLE, will work consistently towards the strengthening of existing agreements in terms of alignment to international standards and improvement of guarantees and conditions for Basotho migrant workers; the

diversification of agreements with an exploration of opportunities with new countries of destination offering high levels of social protection and decent work conditions as well as opportunities **particularly for Basotho low-skilled youth, female job seekers and specific categories of vulnerable workers.**

- 6.2.3 **Promoting ethical recruitment:** The objective is to establish consistent legislative, regulatory and operational frameworks to promote and enforce ethical recruitment relying on professional and capacitated public employment services (PES) and private employment agencies (PEAs) working, if need be, in partnership. This objective will necessitate the development of a range of services to migrant workers and PEAs which will need to be scaled up over time.
- 6.2.4 **Effective support and complaint mechanisms:** The objective is to consolidate and strengthen existing support and complaint mechanisms to assist Basotho migrant workers throughout the duration of their migration. This includes an ability to intervene in foreign jurisdiction through available channels and to have efficient referral systems in place with specialised knowledge of labour dispute and resolution mechanisms in countries of destination.
- 6.2.5 **Strengthening social protection:** The objective is to consolidate, strengthen and expand social protection mechanisms availed to Basotho migrant workers during their stay abroad and upon their return into Lesotho. This implies catering for outstanding claims, assisting with social rights access and portability across scattered periods of contribution and establishing a social security network of support back home, and envisaging bilateral social security agreements.
- 6.2.6 **Social welfare of migrant workers:** The objective is to professionalise, strengthen and expand a range of social welfare services availed to Basotho migrant workers and their families throughout the migration cycle, especially those in irregular situations who cannot contribute into foreign schemes, to maximise the positive impact of labour migration on their livelihoods and broadly on Lesotho's development perspectives.
- 6.2.7 **Engagement of the Basotho diaspora** to explore incentives to bring back investment and skills into the country

### **6.3 Priority activities**

- 6.3.1 **A new BLA strategy:** Development of BLA guidelines and of a model agreement for the country in future negotiations; Training of staff from MoLE, MFAIR, and other relevant stakeholders to the new strategy; Review existing BLAs against the new guidelines and strengthen them; Researching new opportunities for employment abroad, specifically for low-skilled youth, female job seekers and specific categories of vulnerable workers in relation with skills in demand and availability at home; Development of ministerial staff's capacity for strategic negotiation and management of BLAs.
- 6.3.2 **Promoting ethical recruitment:** Establishment of 3 dedicated units for Pre-departure training and sensitization, Contract vetting, and Registration, licensing and training of Private Employment Agencies including adoption of Terms of Reference, guidelines and



communication tools for each unit; Development of national campaigns against fraudulent recruitment practices and trafficking.

- 6.3.3 **Effective support and complaint mechanisms:** Strengthening of existing services and consolidating them into one specific unit dedicated to support and complaints lodging with legal, counselling, and referral capacities; Adoption of a coordination plan with other Lesotho and foreign investigative and judiciary services through appropriate agreements (police, justice, labour court); Development of a recruitment, training and deployment plan for labour attachés between the MoLE and the MFAIR.
- 6.3.4 **Strengthening social protection:** Establishment of a social protection unit dedicated to assisting migrant workers which will coordinate unilateral extension of social security (New Social Security Bill), promote protection of workers abroad through compulsory medical cover and assistance with accessing existing public health services; Professionalise and expand staff responsible for assistance with unclaimed benefits, repatriation of pension rights, and compensation claims with a primary objective of exhausting all outstanding claims over 12 months.
- 6.3.5 **Social welfare of migrant workers:** Assessment of labour migration impact on children left behind; Commissioning of study to establish a welfare service for migrant workers on the model of the Filipino Overseas Welfare Workers Association; Development of basic assistance schemes on financial education; retraining; reintegration into the labour market; Development of comprehensive return and reintegration plan for migrant workers under BLAs; Design of incentives for enterprise creation through partnerships with experienced civil society organisations;
- 6.3.6 **Engagement of the Lesotho diaspora:** Activities to be determined under the future MFAIR Diaspora Engagement Policy.

## Section 7. Immigration for employment: Attracting and transferring strategic skills while enforcing equality of treatment

### 7.1 Policy diagnosis

#### 7.1.1 The LMMA conducted in 2017 pointed to the **following challenges in terms of immigration of migrant workers into Lesotho:**

- The current set up of the work permit system is inadequate in terms of turnaround times and transparency of process leading to delays and frustration from employers and investors but also duplicates in skills (already available in the country) while skills in demand are not proactively located and attracted; a language proficiency test should be added to eligibility criteria for work permits.
- While migrant workers in Lesotho are overwhelmingly employed in skilled and managerial occupations, they do encounter inequalities of treatment and face violations of the Labour Code as well as poor conditions of living. In general, migrant workers are not informed of their actual rights under the Lesotho Labour Code.
- Law enforcement agencies, from labour inspectors to police officials or the Directorate for Dispute Prevention and Resolution (DDPR) arbitrators, have not received recent training and sensitization to the rights of migrant workers in Lesotho and their responsibilities to protect them, including those in skilled and managerial occupations, in a non-discriminatory manner.
- Due to language barriers and the absence of coordinated measures to date, communication and integration between migrant workers and local workers in private sector businesses is often poor and leads to tensions.
- One particularly weak spot is that of the social protection of migrant workers who are in a grey zone, often not receiving social protection from their country of origin while not accessing the rights they may have in Lesotho. This situation entrenches inequality of treatment.
- Another weak spot is the absence of any guidance regarding labour provisions which should be included into trade and investment agreements. Such guidance was provided in the Guidelines for BLAs in Lesotho produced in 2017.

#### 7.1.2 **Turning around this situation** implies that:

- The MoLE undertakes a comprehensive reform of its work permit system in collaboration with the Ministry of Education and Training on the basis of skills-in-demand lists and identifies which language proficiency requirement is most suitable.
- Law enforcement agencies be better trained and prepared to include migrant workers in their efforts at eradicating abusive and unacceptable conditions of work.
- The MoLE in partnership with employers' organisations develop integration programmes aimed at sensitizing migrant and local workers to their respective rights and responsibilities and in general, encourage integration and discourage any form of xenophobia.

- The MoLE ensures better social security coverage of migrant workers to avoid inequalities of treatment and desperate humanitarian situations due to disease or injury.
- The MoLE ensures that trade and investment agreements contain labour provisions aligned to national labour legislation and international standards regarding the protection of both migrant and local workers recruited under these agreements.

## 7.2 Strategic objectives

- 7.2.1 **Values, principles and policy coherence:** Being signatory to the ICRMW and adhering to SADC frameworks, Lesotho's credibility in adopting a NLMP relies partly on its commitment to improving conditions for migrant workers in its own society. This implies a general strengthening and improvement of their condition from recruitment through the work permit system, to labour inspection, integration in society and social protection. In addition, Lesotho will be guided in its selection of migrant workers by the needs of its economy and development priorities.
- 7.2.2 **Ensuring an adequate selection of migrant workers to meet Lesotho's skills needs:** Lesotho should be able to rely on a transparent, efficient and regularly updated system for the identification of skills in demand in specific sectors of its economy to screen applications for work permits from an objective basis as well as source and attract skills in shortage proactively if need be.
- 7.2.3 **Strengthening protection of migrant workers to entrench the principle of equality of treatment:** The objective is to ensure that the standards of protection which Lesotho aspires to for its own workers abroad are equally applied to migrant workers employed in Lesotho. A network of trained law enforcement agencies and sensitized social partners will be entrusted for this role. Such protection should extend to trade and investment agreements for the benefit of both migrant and Basotho workers under these agreements.
- 7.2.4 **Ensuring adequate social and economic integration of migrant workers into Lesotho society:** Lesotho's expectations in terms of the integration of its own workers abroad should equally apply to the integration of migrant workers into Lesotho's society and economy. Sensitization programmes emphasising the rights and responsibilities of all stakeholders will be developed and implemented.
- 7.2.5 **Including migrant workers into social protection:** The objective is to avoid the creation of pockets of neglect where migrant workers would be maintained outside of any form of social protection and decent conditions of work and living. The risk could be to see unscrupulous employers use this as an incentive to hire migrant workers over Basotho workers.

### **7.3 Priority activities**

- 7.3.1 **Reforming the work permit system:** Commissioning of a study for the overhaul of the work permit system; Coordination of immediate logistical interventions such as Digitalisation of the work permit system, Modernisation of labour market tests, Re-design of the work permit application process and coordination with immigration.
- 7.3.2 **Strengthening the capacity of law enforcement agencies, including the labour inspectorate and the police:** Design of labour migration training for labour inspection, DDPAR arbitrators, and immigration officials to be administered on a regular basis through their general training curriculum; Design of training curricula for employers and trade unions regarding conditions of work for migrant workers and detection and prevention of violations.
- 7.3.3 **Improvement of condition of communication and integration between migrant and local workers in private sectors businesses:** Design of training module on education to labour rights and responsibilities to be administered to both migrant and local workers across businesses.
- 7.3.4 **Social protection and welfare of migrant workers in Lesotho:** Design of guidelines for migrant workers and employers on effectively accessing migrant workers' social protection rights and responsibilities Development of guidelines and minimum standards regarding medical and housing conditions of migrant workers in Lesotho.
- 7.3.5 **Inclusion of labour provisions in trade and investment agreements:** The MoLE proposes guidelines on the inclusion of labour provisions into trade and investment agreements and works closely with the Ministry of Trade and Industry to effectively include and enforce these provisions.

## Annex 1. Glossary

### **Migrant**

Any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is (IOM definition). An emigrant is a person leaving his/her country of origin. An immigrant is a person settling in a country of destination.

### **Labour migrant or migrant worker**

A person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national (UN definition).

### **Irregular migrant**

A person whose movement takes place outside the regulatory norms of the sending, transit and / or receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term "illegal migration" to cases of smuggling of migrants and trafficking in persons (IOM definition).

### **Illegal alien**

Term used here in reference to South African legislation where it designates a non-national who has been found in violation of South African immigration legislation by way of not having obtained the required visa to stay and possibly take employment in South Africa.

### **National**

A person of the nationality of the country considered.

### **Non-national**

A person who is of a different nationality than the one of the country considered.

### **Refugee**

A person who, "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country (Art. 1(A)(2), Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol). In addition to the refugee definition in the 1951 Refugee Convention, Art. 1(2), 1969 Organisation of African Unity (OAU) Convention defines a refugee as any person compelled to leave

his or her country "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality." Similarly, the 1984 Cartagena Declaration states that refugees also include persons who flee their country "because their lives, security or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order." (UN and IOM definitions).

### **Asylum seeker**

A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In case of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds (IOM definition).

### **Smuggling**

"The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Art. 3(a), UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Smuggling, contrary to trafficking, does not require an element of exploitation, coercion, or violation of human rights (UNODC and IOM definitions).

### **Trafficking in persons**

"The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000). Trafficking in persons can take place within the borders of one State or may have a transnational character. (UN and IOM definitions).

### **International Labour Standards (ILS)**

ILS are legal instruments that have been drawn up by the ILO's constituents (governments, employers and workers) and set out basic principles and rights at work since 1919. This comprehensive system of instruments (protocols, conventions and recommendations) on work and social policy, is backed by a supervisory system designed to address all sorts of problems in their application at the national level. ILS are aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity (Adapted from ILO definition).

### **Convention (ILO)**

Conventions are legally binding international treaties that may be ratified by member states of the ILO. Conventions lay down the basic principles to be implemented by ratifying countries (ILO definition).

### **Recommendation (ILO)**

Recommendations serve as non-binding guidelines. Recommendations either supplement a specific convention by providing more detailed guidelines on how it could be applied or can also be autonomous, i.e. not linked to any convention (ILO definition).

### **Framework**

A set of guiding ideas and principles from which policy is developed, or on which decisions are based within an organisation or an institution. The degree to which frameworks are binding will vary from case to case (Adapted from Merriam Webster dictionary).

### **Private Employment Agency**

Any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;
- (c) other services relating to job-seeking, determined by the competent authority after consulting the most representative employers and workers' organisations, such as the provision of information, that do not set out to match specific offers of and applications for employment (ILO definition).

### **Labour attaché**

A person officially assigned to the staff of a diplomatic mission, the labour attaché attends to all employment-related matters (legal, mediation, social matters) involving migrant workers of their country in the country of destination while consular officials attend to other issues such as consular services and police cases involving nationals of their countries.

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### **Treaties, laws, agreements**

Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho relating to the Establishment of an Office for a Lesotho government Labour Representative in the Republic of South Africa, Lesotho Citizens in the Republic of South Africa and the Movement of such Persons across the International border, SA Treaty Series 1/1973.

Memorandum of Understanding between The Government of the Kingdom of Lesotho through its Ministry of Employment and Labour and The Government of the Republic of South Africa through its Department of Labour on Cooperation in the Field of Labour (2006).

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Anti-Trafficking in Persons Act, 2011 (Lesotho) and Regulations (2015)

Constitution of Lesotho, (1993)

Deferred Pay Act (2011)

Labour Code Order (1992)

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Labour Code (Amendment) Act (2006)

UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2003), accessed in 2005.

United Nations Convention against Transnational Organized Crime (2000): Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Accessed 2003); Protocol against the Smuggling of Migrants by Land, Sea and Air (Accessed 2004)

### ***Policies (draft and official)***

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## **Annex 3. National Plan of Action for Labour Migration**

### **Background**

This Labour Migration Action Plan (LMAP) is part of a series of activities supported by the International Organization for Migration (IOM) to assist the Ministry of Labour and Employment (MoLE) of Lesotho towards implementing labour migration programmes in the context of the draft National Migration and Development Policy completed in 2013 and the draft National Labour Migration Policy completed in 2016. Both policy documents are awaiting finalisation and validation. The MoLE has requested assistance in the following activities:

1. Completion of a Labour Migration Management Assessment (LMMA) report,
2. Completion of National Labour Migration Policy (NLMP) Action Plan,
3. Finalisation of the draft National Labour Migration Policy (NLMP) for validation,
4. Bilateral Labour Agreement (BLA) Guidelines and a BLA Model.
5. Capacity-building training on Labour Migration Management, and various coordination and validation meetings and workshops.

### **Objectives, methodology and structure**

#### **Objectives**

The National Labour Migration Action Plan (NLMAP) provides a detailed plan of activities to be undertaken under the leadership of the MoLE in the area of labour migration into and from Lesotho. The plan's overall objective is to guide MoLE in its monitoring and evaluation of labour migration activities and coordinate their implementation. The plan's specific objectives are to clarify and organise a series of activities intended to fulfil identified labour migration needs and achieve desired outcomes through the breakdown of tasks, resources, lead institutions and the identification of risks and mitigation.

#### **Methodology**

The NLMAP draws on the conclusions of the Labour Migration Management Assessment and interviews with the following key stakeholders conducted on 16-17 August 2017 in Maseru:

- Association of Lesotho Employers and Business (ALEB)

- Basotho Immigrants Protection Organization (BIPO)
- Bureau of Statistics of Lesotho
- Ex-Mineworkers Association / Also a member of Southern African Mineworkers Association (SAMA)
- Independent Democratic Union of Lesotho (IDUL)
- Labour Export Organisation (LEO)
- Lesotho Labour Council (LLC)
- Lesotho Trade Union Congress (LCTU)
- Migrant Workers Association
- Mineworkers Development Agency (MDA)
- Ministries of Labour and Employment, Foreign Affairs, Development Planning, Social Development, Gender, Home Affairs, Ministry of Education and Training
- National University of Lesotho (NUL)
- The Employment Bureau of Africa (TEBA)
- United Textile Employees (UNITE)

The NLMAP draws on the key intervention areas identified in the draft NLMP completed by the areas and needs identified during the Labour Migration Management Assessment.

### **Structure**

The LMAP is organised around three broad intervention areas which are then broken down into sub-areas and activities. The **three broad intervention areas** are:

- 1. Cross-cutting labour migration policy issues**
- 2. Labour migration from Lesotho**
- 3. Labour migration into Lesotho**

The LMAP is then structured as follows:

Broad intervention areas	Sub-intervention areas
<b>1. Cross-cutting labour migration policy issues</b>	1.1 Lesotho's approach to labour migration: Rights-based, employment and development oriented
	1.2 Governance of labour migration in Lesotho 1.2.1 Institutional framework 1.2.2 Legislative framework 1.2.3 International and regional framework 1.2.4 Regulatory framework 1.2.5 Social dialogue and consultative framework
	1.3 Labour migration data for policy-making
	1.4 Capacity-building for government officials, social partners and civil society organisations
<b>2. Labour migration from Lesotho</b>	2.1 Bilateral labour agreements
	2.2 Promoting ethical recruitment (Pre-departure training, Contract vetting, Regulation of Private Employment Agencies)
	2.3 Support and complaint mechanisms
	2.4 Strengthening the social protection of migrant workers (Unilateral extension; Claiming pension and compensation benefits)
	2.5 Social welfare of migrant workers: Financial education, banking, productive investments, educational loans, Return and reintegration
<b>3. Labour migration into Lesotho</b>	3.1 Reforming the work permit system (Digitalisation, Modernisation of labour market tests, Re-design of application process and coordination with immigration)
	3.2 Labour inspectorate (Capacity-building, legislative reform)
	3.3 Improve communication and integration between migrant workers and local workers in private sector business
	3.4 Social protection of migrant workers in Lesotho
	3.5 Labour provisions in trade and investment agreements

### How to read the plan?

The plan should be read from top to bottom and from left to right. Each broad intervention area is broken down into a sub-intervention area which is itself broken down into activities. From there, each activity is described through a range of indicators further to the right of the row. These indicators are:

Progress / success indicators and outputs, Timeframe from start, Lead institution, Estimated costs and identification of resources, and Risk and mitigation. The numbering helps trace where each activity belongs. Each activity has its own number and can therefore be discussed in isolation of others without confusion. Risk / Mitigation are most of the time specific to each activity but at times they apply to all activities in one sub-intervention area in which case the cells are merged. Costs are based on rough estimates drawing on previous experience. A 'no cost' indication means that the services and resources will be internal to the lead institution. All acronyms have been listed at the beginning of this plan.

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Broad intervention areas and Sub-intervention areas	Expected outcome	Activities	Progress/success indicators and outputs	Timeframe from start	Lead	Estimated costs and identification of resources	Risk / mitigation
<b>1. Cross-cutting labour migration issues</b>							
<b>1.1 Building Lesotho's approach to labour migration as a rights-based, gender-sensitive, employment and development oriented labour migration policy</b>	1.1 Lesotho follows an overarching approach to labour migration that is rights-based, employment and development oriented. Related policies and practices are informed by this approach.	1.1.1 Develop the approach and finalise the National Labour Migration Policy in line with this approach as well as with other recent policy development (National Labour Law Review; Employment policy; National Labour Policy, etc)	1.1.1 Approach has been elaborated explicitly in the NLMP and NLMP has been finalised and validated	8 months	Labour Commissioner / MoLE	Finalisation of policy: 6,000 USD Source: IOM willing if ILO does not support and is OK. Validation: No cost	Policy validation keeps being delayed / Obtain commitment at PS or ministerial level that policy will be validated within 6 months once finalised
		1.1.2 Mainstream the National Labour Migration Policy approach into other policies and national frameworks and strategies, in particular into National Labour Policy	1.1.2 Other national policies contain explicit reference to Lesotho's approach to labour migration (Employment policy, Development policies, Social protection, etc...)	12 months	Labour Commissioner / MoLE	No cost	

<b>1.2 Governance of labour migration in Lesotho</b>							
1.2.1 Institutional framework	1.2.1.a. Lesotho has established or modernised relevant, simple, effective and efficient governance structures and processes to manage labour immigration and emigration	1.2.1.a.1 Undertake an audit of the Migrant Workers Liaison Bureau with a view to expanding it into a Section in charge of all services to Basotho migrant workers abroad and of the implementation of the Lesotho labour emigration strategy	1.2.1.a.1 Audit ToRs drafted and approved; consultant or task team appointed; Audit available; Recommendations implemented.	6 months	MoLE (MWLB)	Audit: 8,000 USD Internal	Audits are not completed due to delays / Ensure that work plan is realistic; Audits recommendations are not implemented / MoLE should commit to implementation within a reasonable period of time if provided with adequate resources
		1.2.1.a.2 Undertake an audit of the National Employment Services (Work Permits Section) with a view to gradually expand it into a one-stop shop model (work and immigration permits; police clearance, traders' licences) and review the issues of localisation of	1.2.1.a.2 Audit ToRs drafted and approved; consultant or task team appointed; Audit available; Recommendations implemented.	6 months	MoLE (NES)	Audit: 8,000 USD Internal	Delays in drafting the functions of

		services and centralisation of decision-making					institutions or not being developed at all  The committee may not receive the necessary support for establishment
	1.2.1.b Lesotho has administrative mechanisms in place based on National Labour Migration Policy and Action Plan to direct migrant labour processes in Lesotho	1.2.1.b.1 Define the roles of all agencies and institutions involved in the labour migration processes in Lesotho	1.2.1.b.1 Written roles and responsibilities drafted	8 months	MOLE	No cost	Little participation by ministries and poor leadership of the NCC
		1.2.1.b.2 Establish an advisory committee on Labour Migration comprising representatives of all key institutions, governmental and non-governmental	1.2.1.b.2 Committee established and incorporated in national legislation	8 months	MOLE	No cost	



		1.2.1.b.3 Strengthen the functioning and role of the current National Consultative Coordinating committee to ensure coordination among stakeholders.	1.2.1.b.3 Workshops, meetings held by and for NCC. TORs reviewed	2 months	MOLE, MOHA	Est.: 5,000 USD	
	1.2.1.c Recruitment industry is regulated through administrative policies, and procedures, within the framework of governance and accountability	1.2.1.c.1 Develop a clear and comprehensive recruitment policy and setting of standards for regulation of the recruitment industry.	1.2.1.c.1 Recruitment policy is drafted	9 months	MOLE	Internal	
		1.2.1.c.2 Develop clear guidelines stemming from provisions of the law to curb recruitment malpractices with clear roles of each actor in all forms of recruitment	1.2.1.c.1 Guidelines developed and implemented	12 months	MOLE	Internal	

	1.2.1.d Lesotho has established an effective framework of uniform procedures, practices and guidelines that apply to all Lesotho Diplomatic missions in all major labour-receiving countries.	1.2.1.d.1 Undertake an initial assessment to ascertain adequacy of services and competence of consular services in relation to labour migration	1.2.1.d.1 Assessment undertaken and recommendations implemented; Comprehensive market promotion plan developed; Duties and responsibilities of officers in the diplomatic missions redefined to emphasize their roles in marketing and employment promotion, monitoring and implementation of BLA and follow-up.	6 months	MOFA, MOLE	Initial assessment: 6,000 USD	
1.2.2 Legislative framework	1.2.2.a Lesotho has established a high standard of protection and promotion of the welfare of migrant workers and their families	1.2.2.a.1 Conduct a review of legislative provisions contained in the Labour Code and amend to align to the country's international commitments.	1.2.2.a.1 Recommendations on changes to current legislation compiled and communicated with the Legal division.	2 months	MOLE	Internal or 6,000 USD	Delayed implementation
1.2.3 International and regional frameworks	1.2.3.a Lesotho has strengthened its legislation and ratified adequate additional	1.2.3.a.1 Ensure mainstreaming of labour migration issues into the	1.2.3.a.1 National Labour Law Review makes explicit reference	2 months	MoLE / Labour Commissioner	Mainstreaming exercise: Internal	Action is not taken swiftly enough to ensure mainstreaming

international conventions and regional protocols to implement its labour migration approach and policy.	National Labour Law Review and National Labour Policy before completion	to the National Labour Migration Policy and Action Plan key intervention areas				into the NLLR
	1.2.3.a.2 Gap analysis of Lesotho Labour Code on regulation of Private Employment Agencies and amendment proposals on forced labour.	1.2.3.a.2 Gap analysis is available; amendments are ready to be adopted	2 months	MoLE / Labour Commissioner	Gap analysis: Can be done by experts already working on NLLR based on suggestions forwarded by MoLE Source: Internal	Gap analysis and amendments are never adopted / Obtain commitment at PS or ministerial level that adoption will be effective within 6 months
	1.2.3.a.3 Develop advocacy plan for ratification of ILO C.97 (Migration for Employment), C.143 (Migrant Workers), C.157 (Maintenance of Social Security Rights), C.181 (Private Employment Agencies) and C.189 (Domestic Workers)	1.2.3.a.3 Advocacy plan is ready for these conventions and political support has been obtained	12 months	MoLE (National Labour Commission) in collaboration with MFA	Drafting of advocacy plan: Internal with technical assistance for review of plan Workshop: 6 to 7,000 USD  Source: internal and external	No political will to ratify these conventions / To be assessed before activity is initiated / Meeting with ILO Southern Africa Director / DWT
	1.2.3.a.4 Develop a lobbying plan supporting ratification of ICRMW, C.97, C.143, C.157,	1.2.3.a.4 Lobbying plan has been established and has received political support;	3 months	MoLE in collaboration with MFA	Lobbying plan: No cost Source: Internal	Lobbying plan at SADC level does not make progress / Work within a small

		C.181 and C.189 among SADC member states	sub-regional meetings are used for lobbying				“coalition of the willing”
		1.2.3.a.5 Ratify SADC Protocol on the Facilitation of Movement of Persons (2005) and SADC Protocol on Employment and Labour (2014)	1.2.3.a.5 The ratification process has been initiated internally with the relevant ministries; The 2 protocols have been ratified and SADC Organ and ELS have acknowledged ratification	6 months	MHA for Protocol on Facilitation of Movement;  MoLE in collaboration with MFA for Protocol on Labour and Employment	No cost	Ratifications are delayed / Identify internal ratification process and obtain political support from start of activity / MoLE (National Committee on Labour has already recommended ratification of Protocol on Labour and Employment to the Minister)
1.2.4 Regulatory framework	1.2.4.a Migration of skilled labour is promoted by ensuring that opportunities are in place and accessible for all citizens for skills development and enhancement	1.2.4.a.1 Develop a regulatory framework to ensure quality and accreditation to private sector training institutions which offer training for skills in demand abroad	1.2.4.a.1 Framework of accreditation developed	12 months	MOLE, MOET		Issues of turfs may hinder the progress of this initiative
		1.2.4.a.2 Conduct regular labour market analysis to ascertain demand	1.2.4.a.2 Market surveys and analyses conducted	24 months	MOLE, BOS	BOS budget	The exercises may not be conducted due to financial implications

		for skilled labour in Lesotho					
		1.2.4.a.3 Develop and implement a comprehensive training plan to increase the capacity of Basotho low-skilled workers (e.g. domestic workers) to access semi- to highly skilled employment	1.2.4.a.3 Training plans developed and implemented	24 months	MOLE and training institutions		
		1.2.4.a.4 Establish formal partnership links between MOLE, national training institutions and private sector training institutions for the development and implementation of training programmes for Basotho potential and returned migrants	1.2.4.a.4 Formal links established, (MOUs)	12 months	MOLE and MOET		The ministry may reconsider the training modules offered at NSTC to add the training programmes for would-be migrant workers
	1.2.4.b Mechanisms are in place to remedy and redress all issues of trafficking and	1.2.4.b.1 Undertake a review of the situation of	1.2.4.b.1 Study report on the situation of irregular	12 months	MOHA, MOLE	Study: 8,000 USD Source: External and	

	smuggling of human beings through implementation of existing trafficking laws	irregular migration, trafficking in persons	migration			internal	
		1.2.4.b.2 Review implementation of National Action Plan on Trafficking in persons	1.2.4.b.2 Reviewed Draft action plan	6 months	MOHA	Internal	
1.2.5 Social dialogue and consultative frameworks	1.2.5.a Labour migration issues including the management of BLAs are regularly discussed by social partners and relevant civil society stakeholders	1.2.5.a MoLE ensures regular tabling of LM issues in social dialogue fora	1.2.5.a Agendas, meeting minutes, resolutions	12 months	MoLE, NACOLA	Internal	Lack of support from social dialogue for a and social partners
	1.2.5.b The rights of all migrant workers to exercise suffrage is recognised and upheld	1.2.5.b.1 Assess the necessary requirements to facilitate voting by migrant workers in electoral processes while in overseas employment	1.2.5.b.1 Assessment conducted	12 months	MOLE, Ministry of Justice	Assessment costs: 8,000 USD	Lack of support from the politicians. There is need to offer training on labour migration to the politicians.

<b>1.3 Labour migration data for policy-making</b>	1.3.1 Lesotho has a functional labour migration data collection and coordination system which policy-makers and other stakeholders use regularly.	1.3.1.1 BoS, MHA and MoLE (National Employment Services) (in the context of the current restructuring plan of the MoLE) to consult and agree on a joint structure that will be responsible for the regular processing and analysis of labour migration data (administrative and statistics) for policy decision and evaluation	1.3.1.1 Record of decision between BoS, MHA and MoLE has been published establishing the structure, clarifying its responsibilities and modus operandi;	3 months	BoS, MHA, MoLE	No cost	BoS, MHA, MoLE do not reach an agreement / Establishment of the structure should be designated as a policy priority  Unit does not produce any report within one year of establishment / Feasibility of outputs should be established when drafting ToRs; Outputs should be clearly listed in ToRs and be part of staff's performance review
		1.3.1.2 Establishment of an information system providing information on wages, conditions of employment / contracts, benefits, etc...	1.3.1.2 Information available to the public and to Government	6 months	MOLE, BOS	Costing to be done	Policy-makers do not use outputs / Training should emphasise what use can be done and seek to elicit their commitment
		1.3.1.3 Incorporate the recommendations from the existing Migration Data Management	1.3.1.3 Recommendations have been addressed	6 months	MOLE, BOS	No cost	

		Framework.					
		1.3.3.4 The newly established joint structure coordinates training for data users in relevant ministries	1.3.3.4 One training workshop on use of labour migration data by policy makers has been held.	12 months	BoS, MHA, MoLE	Training workshop: 8,000 USD Source: ?	
		1.3.3.5 Collect data on incoming migrant workers flows through mapping of skills, qualifications to ensure better job matching	1.3.3.5 Data collected and available for use	8 months	MOLE	???	Development of a comprehensive ministerial database may take longer than anticipated hence delay implementation of this exercise
<b>1.4 Capacity-building activities for Government officials, social partners and civil society organisations</b>	1.4.1 Key Government departments and social partners have access to tailor-made international labour migration standards and labour migration management techniques on a regular basis	1.4.1 A partnership or service agreement is reached between the National University of Lesotho and MoLE on the basis of an agreed upon curriculum for training modules on all aspects of labour migration standards and management techniques (both in terms of placement abroad	1.4.1 Service or partnership agreement is available and signed; Costing and work plan have been developed; Resources have been availed; curriculum of training modules is available; training takes place	12 months	MoLE and NUL with technical support from international organizations	Curriculum development and training delivery: 15,000 to 20,000 USD depending on number of modules and trainees (to be costed) Source: External and Internal	Resources are not identified / resources mobilisation should be part of the initial discussions



		and work permitting system management)					
		1.4.2 Increase institutional capacity for the assessment and recognition of foreign academic, professional and vocational qualifications in cooperation with other stakeholders	1.4.2 Recognition processes have been developed, aligned to regional frameworks (SADC Qualification Framework) and are operational	12 months	Ministry of Education	Internal	Lack of cooperation from other stakeholders
		1.4.3 Design capacity building programmes for law enforcement officials, local authorities, local health professionals and educators local communities on integration, social cohesion and positive contributions of migrants, countering xenophobia and discrimination	Programmes designed and trainers identified	6 months	MOLE	Development of capacity building programme 5,000USD	Lack of implementation
<b>Broad intervention</b>	<b>Expected outcome</b>	<b>Activities</b>	<b>Progress/success</b>	<b>Timeframe</b>	<b>Lead</b>	<b>Estimated</b>	<b>Risk / mitigation</b>

areas and Sub-intervention areas			indicators and outputs	from start		costs and identification of resources	
<b>2. Labour migration from Lesotho</b>							
<b>2.1 Bilateral labour agreements (BLA)</b>	2.1 Lesotho has adopted its own BLA strategy and model and entered into new agreements (or renewed existing ones) to serve its rights-based, employment and development approach to labour migration.	2.1.1 Develop and adopt guidelines to BLA development in the Lesotho context and a model agreement	2.1.1 Consultant has been appointed; Guidelines and model agreement have been reviewed, validated and are available	3 months	MoLE	Guidelines and model: 5,000 USD Source: IOM	Guidelines and model are not utilised by beneficiaries / Ensure commitment and identify possible immediate uses
		2.1.2 BLA guidelines to be adopted as key policy document to govern national strategy and approach of negotiation and mainstreaming of labour migration standards in bilateral agreements in other sectors	2.1.2 Presentation before Cabinet and adoption as national document.	3 months	MOLE, Foreign Affairs	No cost	Intensive advocacy of the BLA is required among all stakeholder ministries

		2.1.3 Review existing BLAs against the guidelines, model agreement and ILS and propose revised agreement and use monitoring mechanisms to redirect existing BLAs	2.1.3 Existing BLAs have been reviewed, amendments have been proposed to the other party; a new negotiation process has been agreed upon; a revised BLA has been adopted; reporting mechanisms are used to adjust and implement	6 months	MoLE in collaboration with MFA and social partners	Review of existing BLAs: No cost / internal / technical assistance from international agencies	Lack of political will to review existing BLAs / Obtain political support to this activity from inception
		2.1.4 Promotion and development of employment opportunities outside Lesotho by exploring the possibility of new agreements that would align to Lesotho's approach, guidelines, model and to ILS	2.1.4 Countries have been identified, approached and agreements elicited or proposed; negotiations have started; new BLAs have been concluded;	3 to 8 months	MoLE in collaboration with MFA and social partners	No cost, internal	New BLA explored do not meet standards / Obtain political support to work with countries which will meet standards from inception
		2.1.5 Develop state and non-state actors' capacity to prepare, design, negotiate, monitor and evaluate BLAs	2.1.5 Pertinent staff have been identified; training on BLAs and study tours have taken place; staff use their skills to work	6 months	MoLE in collaboration with MFA and social partners	Training workshop: 8,000 USD Source: IOM Study tour: ? Source: IOM	Training and study tour do not result in improved BLA management / Set targets from inception of

		at all stages of their implementation through training and study tours	on BLAs; BLAs are better managed with regular reporting and meeting of targets				activity
<b>2.2 Promoting ethical recruitment (Pre-departure training, Contract vetting, Regulation of Private Employment Agencies)</b>	2.2 Lesotho has established or modernised specific services protecting effectively the rights of Basotho migrant workers at the recruitment stage.	2.2.1 With a view to incorporating these services within the Section envisaged in 1.2.1, establish 3 distinct units: Pre-departure training, Contract vetting, Regulation of Private Employment Agencies	2.2.1 Internal reorganisation plan has been drafted and validated; Circular establishing 3 units is gazetted; 3 units are allocated staff and office space	6-8 months	MoLE	No cost / Internal work, possibly with technical assistance from international agencies	Reorganisation is delayed / Ensure political and administration buy-in is obtained from the start
		2.2.2 Pre-departure training unit develops a work plan and services to potential and selected migrant workers including sensitization and training curriculum, material, tutorials and campaigns per sectors and according to protection needs	2.2.2 Work plan including costing of training services, human resources needs and targets is available; Sensitization and training curriculum developed and implemented; sensitization material, tutorials and campaigns have been developed and are	8 months	MoLE / MWLB	Internal work, possibly with technical assistance from international agencies	Pre-departure unit is not established and services are not developed / Ensure that work plan contains targets and timeframe

			used and distributed				
		2.2.3 Develop measures to prevent dissemination of misleading information such as communication strategy and code of ethics for publicity for all institutions involved in recruitment and awareness raising	2.2.3 Communication strategy on labour migration and code of ethics for publicity available and disseminated	12 months	MoLE and PEAs	Communication strategy and code of ethics + dissemination workshops: 10,000 USD Source. Internal and external	
		2.2.4 Contract vetting unit establishes its work plan and adopts standards and processes	2.2.4 Contract vetting unit work plan including targets is available; model contract and minimum standards have been adopted; a contract vetting process has been put in place and advertised to the public and PEAs	8 months	MoLE / MWLB	No cost / Internal work, possibly with technical assistance from international agencies	
		2.2.5 Regulation of PEAs unit establishes its work plan and licensing process;	2.2.5 Regulation of PEAs unit work plan including training costs, human resources	8 months	MoLE / MWLB in collaboration with existing PEAs and	No cost / Internal work, possibly with technical assistance	PEA regulation process remains unchanged in practice due to sloppiness /

		PEA training programme to encourage compliance is established; PEA compliance incentive in the form of award is established	needs and targets available; licensing process has been broken down and formalised in a document available to the public and PEAs; forms related to licensing process are available; complaints related to PEAs' malpractice decrease over time; PEA training programme available and running; PEA compliance award is established and compliant PEAs are rewarded		ALEB	from international agencies	political will and administrative support are sought from inception stage of this activity
<b>2.3 Support and complaint mechanisms</b>	2.3 Basotho migrant workers have access to efficient and effective support and complaint mechanisms throughout the duration of their migration abroad.	2.3.1 With a view to incorporating this service into the Section to be created under 1.2.1, Support and complaint unit is established with identified services to migrant workers such as legal advice and assistance,	2.3.1 Circular establishing the unit is available; staff have been identified and trained	3 months	MoLE / MWLB	Additional staff: to be costed by MoLE Source: Internal	Support and complaint mechanisms remain unchanged / Political will and administrative support are sought from inception stage of this activity

		counselling referral, arbitration with PEAs					
		2.3.2 The Support and complaint unit develops its work plan including targets and processes and becomes operational; the unit also coordinates with other Government institutions (police, justice, labour court where relevant)	2.3.2 The unit work plan is available; processes have been formally put in place for various complaint situations; coordination mechanisms have been identified and formalised	9 months	MoLE / MWLB in collaboration with other Government institutions where relevant	No cost	The unit is established but does not perform / Ensure that MoLE will monitor the unit activity
		2.3.3 A recruitment and deployment plan for labour attachés is developed between MoLE and MFA and labour attachés from MoLE are profiled, recruited, trained and posted in main destination countries	2.3.3 Deployment plan has been agreed upon between MoLE and MFA and is available; Labour attachés' ToRs have been developed; staff have been recruited and are posted on merit basis (qualifications and experience meet ToRs requirements)	9 months	MoLE in collaboration with MFA	Newly recruited staff: to be costed by MoLE and MFA Source: Internal	Labour attachés remain in insufficient numbers and are overwhelmed / Ensure that division of labour between labour attachés and MoLE Support and complaint mechanisms is reasonable from inception

			); hot lines have been put in place; regular coordination with Support and complaint unit in MoLE Migrant Workers Section is effective (reports available)				
<b>2.4 Strengthening the social protection of migrant workers (Unilateral extension; Claiming pension and compensation benefits)</b>	2.4 Basotho migrant workers have access to social protection (medical care including treatment of chronic diseases, maternity leave, sick leave, compensation for occupational disease and injury, repatriation of dead bodies) and are supported efficiently in claiming their pension and compensation benefits.	2.4.1 With a view to such a unit being incorporated into the Section to be created under 1.2.1 and in the framework of the Social Security Bill (Section on migrant workers), establish a social protection unit tasked with coordinating unilateral extension of social protection in Lesotho, promoting social protection of migrant workers abroad including compulsory insurance for medical cover and	2.4.1 Social protection unit established; ToRs and work plan including targets available; targets monitored by Section	9 months	MoLE / MWLB	Staff increase and training to be costed by MoLE / MWLB	Staff are not increased and MWLB remains overwhelmed / Ensure political support to staff increase from inception



		supporting migrant workers' claims					
		2.4.2 Rationalise, professionalise and increase staffing of unit staff tasked with assistance with the claiming of pension and compensation benefits from abroad employers	2.4.2 Unit section staff recruited and trained; targets increased and met (number of applications processed, amounts transferred)	9 months	MoLE / MWLB	Increase staffing to be costed by MoLE Source: ?	Benefits effectively claimed remain low / Ensure widespread communication to assist unit in performing its task
		2.4.3 Establish a social security fund or scheme for all categories of Basotho migrant workers to ensure their minimum coverage	2.4.3 The fund or scheme has been established and is functional	12 months	MoLE / Social Development	Study should determine costs	Study indicates that such a fund or scheme cannot be sustainable

2.5 Social welfare of migrant workers: Financial education, banking, productive investments, educational loans, Return and reintegration	2.5 Migrant workers and their families are offered a range of quality welfare services at minimal costs to accompany them in terms of the listed areas aligned to the recommendations contained in the SADC regional Indicative Strategic Development Plan (RISDP), SADC Labour Migration Policy Framework (2014) and Action Plan (2016-2019).	2.5.1 Formulate a policy framework in line with the already existing policy frameworks such as the APEC and Children's protection Act and conduct a cost benefit analysis of the social and economic costs of children of migrant workers left behind	2.5.1 Policy developed and implemented; Study conducted and dissemination for policy formulation	24 months	MOLE, Social Development	5,000 USD	Study not conducted
		2.5.2 Undertake a cost and feasibility study to establish a welfare service on the model of OWWA	2.5.2 ToRs of study drafted; consultant appointed; Study completed and validated	6 months	MoLE / MWLB	Study: 5,000 USD Source: Internal	Study is not undertaken due to lack of political will / Present the OWWA model to PS to explain benefits to be expected
		2.5.3 While awaiting conclusions of study, propose assistance with financial education training, and return and reintegration into the labour market	2.5.3 Financial education training programme drafted and facilitator identified; Number of migrant workers trained; Labour market reintegration assistance programme	6 months	MoLE / MWLB with technical assistance from international agencies	Design of financial education and reintegration programme: 5,000 USD Source: Internal	MWLB cannot implement this because it is overwhelmed / Ensure adequate staffing and resources are allocated to either implement internally or outsource

			drafted and facilitator identified; Number of migrant workers sensitized				
		2.5.4 Develop a comprehensive return and reintegration plan for migrant workers with the aim of promoting their local employment, tapping their skills and personal and national development.	2.5.4 Plan developed	6 months	MOLE/MWLB	5,000 USD or internal / no cost	Understaffing may hinder timely completion of the plan
		2.5.5 Promotion and provision of incentives for promoting enterprise creation and development by returnees and review of existing incentives.	2.5.5 A policy on incentives developed	12 months	Small business, MOLE, Finance	5,000 USD or internal / no cost	
		2.5.6 Periodic assessment of return process and job opportunities for returning migrants.	2.5.6 Studies conducted and disseminated	12 months	Finance, MOLE, Social Development	Internal	

		2.5.7 Conduct information dissemination, sensitisation sessions on return and reintegration from the point of departure and during employment by the diplomatic missions	2.5.7 Information dissemination materials developed and distributed to users/trainers	6 months	MOLE	Costs to be estimated	Partnering with and involvement of NGOs is key
		2.5.8 Develop a strategy or framework for civil society organisations and trade unions to support reintegration process and the empowerment of migrant workers	2.5.8 A coordination system is developed and implemented	12 months	MoLE and CSOs	Costs to be estimated	Reluctance to partner / Clarify from inception what mutual benefits could be  Reluctance to partner / Clarify from inception what mutual

		2.5.9 Partner with civil society organisations, trade unions and migrant rights organisations to propose productive investments and educational loans	2.6.3 Partnership agreement between MoLE and identified civil society organisation signed; services offered to migrant workers outside of mining	8-12 months	MoLE in collaboration with the identified civil society organisation	To be determined based on scope of services requested to MDA	benefits could be
		2.5.10 Engage transnational communities settled abroad to mobilise their expertise, and skills, resources, promotion of investments, technology transfers, trade and good governance	2.5.10 Draft framework/ plan on providing incentives for return and contributing to economic growth is developed and implemented	24 months	Foreign, MOLE	Costs to be estimated	Buy-in from the Ministry of Home Affairs is largely anticipated
		2.5.11 Building on previous studies, conduct a mapping of diaspora communities and develop a related database	2.5.11 Mapping exercise conducted	12 months	MoLE	Mapping exercise: 8,000 USD	
		2.5.12 Create an	2.5.12 Enabling	12 months	MOLE and	Internal	

		enabling environment for maximising migrant savings, productive investments through reduction of transfer costs, widening choices of remitting channels	legislation in place		Finance		
		2.5.13 Conduct cost benefit analysis of labour migration to inform other development policies	2.5.13 Cost benefit analysis conducted and disseminated	12 months	MoLE	Internal budget	
		2.5.14 Approach banking sector to lower down costs of remittance transfers and propose micro-loans to returning migrant workers	2.5.14 Agreement signed between relevant Government institutions and banking institutions	8-12 months	MoLE, Central Bank and interested banking institutions	No cost	Reluctance to partner / Clarify from inception what mutual benefits could be
<b>Broad intervention areas and Sub-intervention areas</b>	<b>Expected outcome</b>	<b>Activities</b>	<b>Progress/success indicators and outputs</b>	<b>Timeframe from start</b>	<b>Lead</b>	<b>Estimated costs and identification</b>	<b>Risk / mitigation</b>

						of resources	
<b>3. Labour migration into Lesotho</b>							
<b>3.1 Reforming the work permit system (Digitalisation, Modernisation of labour market tests, Re-design of application process and coordination with immigration)</b>	3.1 Lesotho relies on a transparent, effective and efficient work permit system.	3.1.1 intermediary quick wins (Digitalisation, Modernisation of labour market tests, Re-design of application process and coordination with immigration)	3.1.1 ToRs drafted; consultant appointed; study completed, reviewed and validated; conclusions implemented	6 months	MoLE / NES in collaboration with MHA and technical assistance from IOM	Study: 5,000 USD Source: External promotion of investment IOM as part of its IDF project?	Conclusions of study are not implemented and work permit system continues to be erratic / Ensure buy-in from all relevant stakeholders within
		3.1.2 Implement conclusions of study and effectuate overhaul	3.1.2 Implementation plan including targets drafted; overhaul evaluation at 6 months and 1 year	12 months	MoLE / NES and technical assistance from IOM	To be determined by study	Government from inception of activity and obtain their commitment to implementing conclusions
<b>3.2 Labour inspectorate and Complaint mechanism (Capacity-building, legislative reform)</b>	3.2 The Lesotho Labour Inspectorate and DDPR provide equal treatment to migrant workers employed in Lesotho and help prevent and sanction discrimination.	3.2.1 Address violations and abuses in different stages of labour migration processes through appropriate redress mechanisms	3.2.1 Checklist on labour migration inspection developed and incorporated into the existing labour inspection checklist	6 months	MoLE / MWLB and Labour Inspectorate	No cost	Labour inspectorate lack of understanding that labour migration also falls under their purview

		3.2.2 Include labour migration training and sensitization of labour inspectors in standard labour inspectorate training curriculum and develop stand-alone guidelines on labour inspection and migrant workers	3.2.2 Module on “Labour inspection for the protection of migrant workers” designed and included in labour inspectorate training curriculum; Stand-alone guidelines developed and available; Training administered; Number of labour inspectors trained	6 months	MoLE / MWLB and Labour Inspectorate	Design of training module and training of trainers: 8,000 USD Source: Internal and external	Labour inspectorate is reluctant to add this module to its training curriculum / Ensure buy-in of Labour Inspectorate leadership from inception
		3.2.3 Design and hold labour migration training on migrant workers’ rights for DDPR arbitrators	3.2.3 Module on “Conciliation and arbitration for the protection of migrant workers” designed and included in DDPR training curriculum; Training administered; Number of DDPR adjudicators trained	6 months	MoLE in collaboration with DDPR	Design of labour migration training for DDPR and facilitation: 8,000 USD  Training workshop: 3,000 USD Source: ?	DDPR is reluctant to this training / Ensure buy-in of DDPR leadership from inception
		3.2.4 Design and hold regular training on “Roles and responsibilities of	3.2.4 Training curriculum on “Roles and responsibilities of employers of	6 months	MoLE in partnership with ALEB and LLC	Design of training curriculum and facilitation: 8,000 USD	ALEB and LLC are reluctant to this training / Ensure buy-in of ALEB and LLC



		employers of migrant workers in Lesotho” for Lesotho employers and trade unions	migrant workers in Lesotho” designed and validated; Training administered; Number of employers and trade union cadres trained			Training workshop: 3,000 USD  Source: internal and external	leadership from inception
<b>3.3 Improve communication and integration between migrant workers and local workers in private sector business and between migrants and local communities to foster a stable and inclusive society</b>	Peaceful social and industrial relations between migrant workers, employers and local workers and decrease of social unrest	3.3.1 Design gender sensitive training module on education to labour rights, non-discrimination and violence prevention and cultural diversity and Lesotho’s specificities to be proposed to employers for inclusion in their orientation programmes to prepare migrant workers for integration	3.3.1 Training module curriculum is available; trainers have been identified and recruited	6 months	MoLE in partnership with MFAIR, MTI, LNDC, and ALEB	Development of training curriculum for education to labour rights and cultural diversity module: 5,000 USD Source: internal	Resources are not identified / On the basis of a concept note describing the purpose of the module, sensitize bilateral donors and Lesotho employers to its relevance
<b>3.4 Social protection and welfare (living conditions) of migrant workers in Lesotho</b>	Migrant workers employed in Lesotho have access to decent social protection equivalent to that availed to the national workforce.	3.4.1 Issue guidelines to improve migrant workers’ social protection in Lesotho including making subscription to	3.4.1 Guidelines available	6 months	MoLE in partnership with Social Protection Ministry	Study: 5,000 USD  Source: Internal	Lack of political will / Ensure that key stakeholders understand that it will increase Lesotho’s bargaining power vis-à-vis countries

		medical insurance and evidence of housing conditions compulsory for issuance of work permit					of origin of migrant workers
		3.4.2 Develop policies that recognise equitable access to health services and access to education for migrant workers	3.4.2 Migrant workers have access to health and education services	12 months	MOLE, Health, Education	Internal and external- World bank project on TB in the Mining sector	Lack of understanding of migration issues may hinder progress
<b>3.5 Labour provisions in trade and investment agreements</b>	Trade and investment agreements contain labour provisions aligned to national labour legislation and international standards regarding the protection of both migrant and local workers recruited under these agreements	3.5.1 Guidelines on the inclusion of labour provisions based on international best practice are available and effectively included in trade and investment agreements	3.5.1 Labour provisions can be identified in reviewed and draft trade and investment agreements	24 months	MoLE, Ministry fo Trade and Industry	Internal	Lack of understanding of Ministry of Trade and Industry and Employers' organisation regarding the benefits of labour provisions in trade and investment agreements