THE STATE OF REGULATORY BEST PRACTICE INITIATIVES IN AFRICA

A desktop study of 11 countries

Conducted by the SBP for the UK Department for International Development (DFID)

November 2003

Botswana

Ghana

Kenya

Lesotho

Malawi

Mozambique

Namibia

Swaziland

Tanzania

Uganda

Zambia

SBP

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79 Oxford Road, Saxonwold, Johannesburg, South Africa

PO Box 1051, Houghton 2041, Johannesburg, South Africa

Tel +27 11 486-0797
Fax +27 11 486-0810

www.sbp.org.za

info@sbp.org.za

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INTRODUCTION

THIS study investigates, through a desktop methodology, the extent to which regulatory best practice (RBP) principles are established on the public policy agendas in 11 African countries. The countries studied are Botswana, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Swaziland. Tanzania, Uganda and Zambia. The study is complementary to a previous study of RBP awareness in South Africa, conducted by SBP and funded by DFID, published as *Not There Yet: The State of Regulatory Best Practice Initiatives in South Africa* (September 2003).

RBP has emerged in recent years as a key consideration in national development policies. It takes the now well established idea that economic growth is driven by private sector activity and asks how this can be encouraged. Macro-economic stabilization has long been recognised as an essential precondition. RBP goes a step further and asserts that such stabilization alone is not, on its own, sufficient to generate sustainable growth. It is necessary that it be complemented by an appropriate regulatory environment. Essentially, the regulatory burden on the private sector should be both as light as possible and matched to state capacity to implement. The literature on development shows that until recently this idea has been mostly ignored in development policies. Lately however, the efforts of the international donor community have increased awareness of the need for a strong focus on RBP if a country is to achieve a rate of economic growth that is likely to have a significant impact on poverty and unemployment.

It is of course a huge step from awareness of the need for RBP to actual implementation. However as implementation is not possible without such a prior appreciation, it is this awareness that is the focus of the study, rather than actual implementation measures. In most cases the latter are still in a process of development, at best.

As a desktop study, the primary emphasis is on documentation. The two main categories analysed are: 1) Statements by domestic actors, including National Development Visions, Poverty Reduction Papers, policy positions on Small and Medium Enterprise (SME) development, papers on private sector development, speeches by senior representatives of government and the private sector, press clippings (where available) and any other material of relevance to RBP issues. 2) Literature produced by donor agencies, including studies by the World Bank/IMF agency Foreign Investment Advisory Service (FIAS), the country Investor Roadmaps published by USAID, and UNCTAD's country Investment Policy Reviews.
But how did we actually go about assessing the seemingly rather intangible matter of RBP awareness? Our matrix comprised several elements:

1. Statements of commitment to RBP in official policy documents and/or statements by prominent government figures – at least of cabinet minister rank. We confined our search to the last 5 years and, where there has been a change of government in this time (Ghana, Kenya, Zambia), statements by the new regime only. Our criteria for what constituted a statement showing awareness of RBP was the use of key phrases like: '(We are looking for) an enabling role for government in private sector development', '(Our aim is) to make it easy to do business in (country x)', 'the role of government is

to facilitate private sector development' and '(our approach is) to remove the hurdles to investment'. Often these sorts of statements appeared as an insignificant part of a much broader document – but in those cases where they reflected the central theme of a high-level policy position (Ghana, Kenya and Uganda), they have been interpreted as more significant.

2. RBP as a key component of poverty reduction. We searched for evidence of awareness of a particular causal chain in policy goals. Statements about *poverty alleviation* were required to be linked to *private sector development* as a means to achieving this end, with *regulatory reform* as a component of the latter. In many cases, poverty reduction is seen solely as a matter of welfare provision. The documents analysed for evidence of a particular country's approach were mainly, but not exclusively, Poverty Reduction Strategy Papers (PRSPs) or their equivalents. Botswana, as a lower middle income country, has never been required by donors to produce such a document and, accordingly, we had to look among a much more diverse range of policy documents in researching that country.

3. An awareness of the link between inappropriate regulations and the prevalence of corruption. Anti-corruption efforts traditionally utilize 'efforts of will' such as anti-corruption drives and/or legal instruments such as codes of conduct. We searched for evidence that the governments of case study countries understood that inappropriate or excessive regulations are an integral part of the phenomenon of corruption.

4. The existence of a regulatory impact unit or some embryonic organisation that may develop in such a direction. Ideally such a unit would be 'owned' by the case study government, located at a significant vantage point in government and have strong political backing. In the few cases where there are such units, we looked for evidence of effective performance.

5. A commitment to consulting the private sector. The private sector is the sector with the greatest intrinsic interest in RBP. Its voice will however be ineffective unless government is committed to genuine consultation. Rhetorical commitments are of course easy but often meaningless. What we sought to identify were statements which committed government to a pattern of persistent and regular contact with the private sector and a genuine willingness to shift, if necessary, as a result. Although beyond the scope of this study, actual policy shifts attributable to lobbying by the private sector are the most conclusive evidence that a government's commitment is genuine.

6. An effectively organised private sector. Ideally, we assume that the private sector should advocate RBP through a single representative umbrella organisation which engages in on-going interaction with government. Such organisations should arise autonomously (i.e. not through state sponsorship), should have full-time research and advocacy capacities, should identify RBP as a central concern and must represent the widest possible range of sectors. Although we did not expect to find anything even

approaching this ideal, we looked for statements that indicated awareness – on the part of both government and the private sector – of the importance of the model. We also looked for statements that linked the coherence of private sector organisation to RBP. However even where these were not found, we presume more developed private sector organisations are a positive force for deepening awareness of RBP.

7. Relating RBP to the conditions for indigenous business growth. There is a danger that the greater power of the foreign investment lobby will see it achieve a far more favourable regulatory environment than the indigenous private sector. We looked for signs of awareness of this issue as a problem, among both governments and the organised private sectors. We also examined the mandates and statements of indigenous investment facilitation units and their political bosses in the hopes of finding evidence that the RBP logic inherent in smoothing the path for foreign investors had been extended to the indigenous business sector.

8. RBP as a mechanism for small business development. Many SME development policies are supply driven – in other words the policy is to provide cheap credit or training or set-asides or some combinations of these. But often the biggest need is to reduce the administrative burden on small businesses, which are more gravely affected than larger companies. We looked for signals that the importance of this element of policy is recognized.

There are a number of limitations to this exercise. Three are particularly notable.

First, the desktop methodology always misses a great deal that has never been written down. There will often be dynamics in the corridors of power that cannot be captured by such a study. A desktop study is typically only useful as a first step and can never show what is on the minds of politicians, officials and business people as effectively as a survey or structured interviews. But the advantage is that it does show which outcomes have crystalised in the form of official commitments and policy positions.

The second limitation may be more serious. It is however a limitation inherent in the process of studying any set of policy ideas, as opposed to actions, and is thus not unique to this study. The ideas expressed on paper and captured here may be a better reflection of the concerns of donors and consultants than of indigenous actors in the countries studied. We have tried to draw the distinction between the ideas of these external actors and the indigenous role players. But this is an artifical divide, which tends to neglect the dynamism of policy-formulation in the real world. The fact that an idea has been injected into public debate by a donor-funded consultant does not necessarily mean that it will not be adopted and implemented. But for the exercise here it is necessary to recognize that there are certain statements of commitment to RBP that reflect the views of outsiders and not indigenous role players.

Finally, the eight elements of the matrix listed above are not a comprehensive list of everything that falls within the ambit of RBP. A truly comprehensive exercise would also cover, among other things, land tenure reform initiatives, gender reforms (women are legal minors in some of the case study countries and thus lack legal contractual capacity) and reforms to commercial law systems. However, despite these limitations, the matters researched here do give a relatively accurate broad general picture of regulatory best practice awareness in the case study countries. Covering more policy issues would simply give us a better understanding of the developmental issues facing the case study countries, without necessarily revealing much more about their understanding of the importance of appropriate regulation.

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BOTSWANA

GLOSSARY

BDC	Botswana Development Corporation
BDP	Botswana Democratic Party
BEDIA	Botswana Export Development and Investment Authority
BIDPA	Botswana Institute for Development Policy Analysis
DIA	Department of Industrial Affairs
GoB	Government of Botswana
LEA	Local Enterprise Agency
LPP	Local Procurement Programme
MTI	Ministry of Trade and Industry
NDB	National Development Bank
SBC	Small Business Council
SBPA	Small Business Promotion Agency
VAT	Value-added Taxation

INTRODUCTION

Botswana's tremendous economic growth since independence in 1966 has seen the country leap from the ranks of 'least developed' and join the ranks of middle income nations. Moreover this was achieved by adhering to a market-based system at a time when many other African countries opted for centralized planning.

GNP/capita rose from less than US$100 in 1966 to US$3,312 in 2001[1], based on exploitation of natural resources, especially diamonds and, more recently, wildlife tourism. However current prospects are more ambiguous. GDP/capita has actually been in decline over the last 5 years or so, according to World Bank statistics.

Table 1.1: recent GDP/capita

	1998	2001	2002
GDP/capita (US$)	3 290	3 100	2 980

Source: World Bank

Botswana's economic growth appears to have leveled off. The main growth driver since independence – minerals extraction – is clearly not sustainable in the long term; as a result the Government of Botswana places a considerable emphasis on a policy of 'diversification', which in practice implies moving into what were once called secondary and tertiary industrial development. But in statements to do with this development, the place of RBP is at best ambiguous.

POLITICAL AND ECONOMIC CONTEXT

Botswana has been one of the most stable African counries since independence, and, more recently, one of the most prosperous. Although only one party, the Botswana Democratic Party (BDP), has been in power in that time, Botswana has had a multiparty democracy since independence. Political violence in Botswana is almost unheard of. Policies since independence have been consistently based on private sector-driven growth, although there has been a strong tendency towards a large role for the state (see Maipose, G.S. [2003]).

This last point is directly related to the role of primary extraction as a driver of economic development. Throughout Botswana's independent history, the main actors have been large corporates, with which the Botswana state has found it both easy and expedient to form partnerships. The concept of 'diversification' runs against this trend in that it transfers emphasis to indigenous business and SMEs. There is undoubtedly a potentially huge role for RBP in this transition. The primary instruments for facilitating development have been low direct taxation and subsidies for job creation. Diversification policy is spelled out in the Industrial Development Policy spelled out in Government Paper No. 1 of 1998. The policy

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[1] Figures from UNCTAD, *Investment Policy Review Botswana*, Geneva, September 2002 p. 3

emphasizes the diversification of the manufacturing sector through the promotion of highly productive and efficient export industries, the creation of linkages between industries and the development of small, medium and micro enterprises.

While not directly related to Botswana's RBP awareness levels, mention has to be made of high levels of HIV/AIDS. In 2001, the Government of Botswana (GoB) estimated that 38.8% of the population was infected. Diversification is, in part, seen as a means of boosting indigenous business development and thus cushioning the impact of HIV/AIDS.

RBP AND DIVERSIFICATION

Diversification policy provides an opportunity to get RBP entrenched on the agenda in Botswana. However to the state actors involved, issues are not necessarily straightforward and two contradictory trends can be observed – a move towards RBP (epitomized by the commissioning of a FIAS report – see immediately below), on the one hand, and supply-side measures like cheap credit and entrepreneurship training as well as local preferences, on the other.

FIAS red tape/administrative barriers report

In his budget speech for 2003, the Minister of Finance and Development Planning, B. Gaolathe, announced that 'Government will be undertaking a study, during 2003/04, on the review of administrative barriers to investment in Botswana'. [Gaolathe, B (2003) *Budget Speech*, Republic of Botswana]. The study is to be conducted by the Foreign Investment Advisory Service (FIAS) of the World Bank and IMF (confirmed on www.fias.net). This is a promising development from an RBP perspective – but it is not yet clear that the GoB's commitment to RBP in the process of economic diversification is unambiguous.

Local procurement

One very notable anti-RBP element in policy is the local procurement programme (LPP), introduced in 1997 and reviewed in 2000. This is a scheme that reserves 30% of Central Government purchases for citizen-owned manufacturers or 'non-citizen owned manufacturers' which meet certain qualifying conditions.

The GoB says that 'It is intended that by having access to this ready-made market, local production and entrepreneurship will be stimulated to the extent of being internationally competitive Ministry of Trade Industry Wildlife and Tourism, GoB [2003] 'Local Procurement Programme' (GoB website). But reserving the local market for indigenous firms (set asides) is contrary to generally-accepted RBP principles.

Other policies

The GOB unveiled a new **Mining and Minerals Bill** in 1998, with objective of reducing the government's participation while linking the rate of tax to annual profits in a bid to encourage diversification and potentially less profitable exploratory ventures.

Bureaucratic hurdles facing new businesses still exist: it can take over a year before firms can be certified as being genuine manufacturing firms in order to qualify for the lower tax rate of 15% as announced in the 1995/96 budget.

There is a draft **Companies Bill** currently in the process of being enacted. It provides for, among other things, formations and registration of Close Corporations and an easier and simpler method for the formation of companies. In addition, the proposed Companies Act provides for high standards of corporate governance.

Value-added tax (VAT) has replaced domestic sales tax in July 2002. The GoB is also looking to establishing a revenue authority as a means of further boosting domestic tax collections. There is little evidence of RBP input into the debate around VAT although statements by Graham Bannock, at a Gaborone workshop in 2002 were reported in the local press.

Legislation regulating income tax is contained in the **Income Tax (Amendment) Act** of 1995. All income accruals and specified capital accruals are liable to tax. The tax laws in the country are generally regarded by observers as both well-enforced and clearly laid out. There are not often instances of confusion in this regard. There thus appears to be some awareness of the (RBP principles of) clarity and simplicity in tax administration – which at least provides a reference point for RBP advocacy.

Botswana continues to move towards the abolition of **exchange controls**. Foreign investors are allowed to trade in the local currency and are in fact encouraged to do so on the Botswana Stock exchange.

Debates

There is not much evidence of public debate on RBP in Botswana. However one reference was found. Prof. G.S. Maipose [2003] quotes one of the 'main resolutions' of the 7th National Business Conference, held in Francistown in August 2002: 'Government efforts to facilitate economic diversification and reduce the direct role of the public sector have not been as aggressive and consistent as they should be'.

POLICY STATEMENTS

National Development Plans

Botswana has developed since independence in terms of a series of National Development Plans. The current Plan is the ninth in this series (see Gaolathe, B. [2002] Minister of

Finance and Development Planning, *Presentation speech on the Draft National Development Plan 9 2003/04-2008/09*). There is very little in this speech that can be interpreted as favouring RBP. The list of 'issues ahead' lists almost everything possible except RBP. The Minister optimistically refers to policies to 'propel the economy further' and 'help create more jobs' (p. 10) but manages to avoid any reference to RBP. When the term 'healthy environment' appears (p.12) – 'economic growth is not sustainable without a healthy environment', it is the 'green' environment that is being referred to.

The speech also promotes the development of small business – but refers only to supply side measures – and attracting investment to the country, again without any allusions to RBP ideas.

National Vision 2016

Drawn up by the Presidential Task Group on a Long Term Vision for Botswana which commenced work in January 1997. There little no direct evidence of RBP ideas – but at least one major point could be developed in an RBP direction. On p.6 the document suggests that 'Government will be providing a lead by assuming the role of facilitator, in partnership with the private sector, to create an environment where business and entrepreneurial activities are encouraged and supported'.

There is no further evidence of RBP ideas in the document. In fact, on SME development, references are all to 'credit and incentive packages' (i.e. state-driven supply side policies) [p.52].

Vision 2016 makes frequent references to the desire to diversify the economy (e.g. p.6, p.15) and especially the desire to promote manufacturing. This is another possible point of insertion for RBP ideas: 'The country has moved from a situation where there was a strong momentum that needed principally to be controlled and managed, to a situation where it must generate new kinds of activity to fuel further growth' (p. 21).

On consulting business: 'Botswana cannot afford to allow an adversarial atmosphere between Government and business … Government will therefore need to move from its present Regulatory position to an attitude of active promotion of business and industry' [p.27]. But the proposed methods of achieving this appear to be state driven, not RBP (investment incentives, etc).

POLICY ON SMALL, MEDIUM AND MICRO ENTERPRISES

Approved by Parliament in December 1998 (see BIDPA [1999] 'The New Policy on Small medium and Micro Enterprises' *BIDPA Briefing*). The policy creates a Small Business Council (SBC) which has a regulatory review function. The MTI's website says that the relevant bill passed a second reading in December 2003.

On the policy document, BIDPA says: ‘The policy has made some steps forward … it abolishes licence requirements for hawkers and vendors’. However, as has happened in regard to RBP elsewhere, those who drew up the policy were too far ahead of the legislators: ‘a recommendation that licences be abolished for all citizen owned businesses has been deferred pending the on-going review of the Trade and Liquor Act’.

BIPA however concludes that ‘the hope was that government would move towards playing a facilitating role, in contrast to the present interventionist one’. But ‘the broad principle has only been accepted by government to a limited extent’. Small business did benefit from reforms to Sales Tax administration (essentially an exemption at the lower end of the scale).

In Finance Minister Gaolathe’s 2003 budget speech, reference is made to the establishment of a Local Enterprise Agency within the Ministry of Trade and Industry. But the functions mentioned are all supply side support for small business: ‘The role of LEA will entail expediting the training and mentoring support to local enterprises nationwide’ [Gaolathe, B (2003) *Budget Speech*, Republic of Botswana, p.15].

PRIVATE SECTOR CONSULTATION

It is possible that one reason for not picking up much evidence of RBP debate is that much of the interaction between the GoB and the private sector occurs outside public forums. The private sector in this context refers to large corporates. The SBC – referred to in the section above – may provide some kind of counterweight once it is functioning. However it should be remembered that history is on the side of the corporates – meaning that institutions and patterns of (government) behaviour are oriented towards meeting the needs of these companies. While corporates are not necessarily anti-RBP in principle, this is a much less pressing issue from their perspective.

GOVERNMENT INSTITUTIONS

The following relevant ministries and offices exist within the government:

- Ministry of Trade and Industry
- Ministry of Finance and Development Planning
- Directorate on Corruption and Economic Crime
- Office of the Auditor General

The Ministry of Trade and Industry’s (MTIs) role is to enhance socio-economic progress and to develop trade, industry and commerce. The Registrar of Companies, the Small Business Promotion Agency (SBPA) and the Department of Industrial Affairs (DIA) are housed within the Ministry.

The DIA is charged with the responsibility of promoting the development of industry ‘through a variety of public policy instruments with the aim of diversifying the economy, increasing employment opportunities, developing local entrepreneurship and increasing the participation of Botswana at all levels of industry'. The activities of the Department are guided by the Industrial Development Policy that came into effect in 1998 as Government Paper No. 1 of 1998 – the paper referred to above as the cornerstone of diversification policy.

The Ministry of Finance and Development Planning's role is to ensure that the national socio-economic development requirements are fully identified. This Ministry has the power to appoint or remove all directors of two significant role players; the Botswana Development Corporation Limited (BDC) and National Development Bank (NDB).

The Botswana Development Corporation Limited (BDC) was established in 1970 to be the country's main agency for commercial and industrial development. The Government of Botswana owns 100 percent of the issued share capital of the Corporation. By providing the following services (equity participation, loan financing, and provision of commercial, industrial and residential premises), the BDC's role is to:

- provide financial assistance to investors with commercially viable projects.
- Support projects that generate sustainable employment for Botswana and add to the skills of the local workforce.
- Encourage citizen participation in business ventures
- Furthermore, BDC supports the development of viable business which perform one or more of the following functions
- Use locally available resources
- Produce products for export or to substitute imports
- Foster linkages with the local industry
- Contribute to the development of Botswana's resources and overall economy

The Directorate on Corruption and Economic Crime, was established in 1994 after the enactment of the Corruption and Economic Crime Act, and is 'concerned about the increasingly detrimental effects of these crimes which were seen to be limiting Botswana's development by affecting its social structures, depriving it of considerable revenue and damaging the country's reputation abroad'. We did not find any evidence that the link between corruption and RBP had been drawn.

The Botswana Export Development and Investment Authority (BEDIA) is an autonomous private sector led organisation mandated by an act of parliament (1997) to promote investment in export-oriented activities which will result in rapid economic growth and sustained employment opportunities in accordance with Botswana's social and economic policies and objectives. It puts itself forward as the first point of contact for potential investors in Botswana and provides a one-stop-shop for potential investors. BEDIA have offices in the

United Kingdom and South Africa. The focus is more on international investors and not necessarily on trying to promote an enabling environment for local businesses.

CONCLUSION

All matters of economic policy in Botswana are strongly linked to and driven by the GoB. However, on the matter of RBP, the government's response appears to be fragmented and unfocused. Although the GoB actively seeks to improve the level of FDI in the country – providing foreign investors with equal access to general incentive schemes – RBP-type provisions for these firms do not appear to have translated into awareness of the desirability of similar benefits for indigenous companies or the business environment generally. However the absence of strict screening mechanisms (for foreign investors) may be a favourable sign from an RBP perspective.

The move towards diversification has to be seen as an opportunity to introduce RBP ideas onto the agenda in Botswana. At present, RBP principles are not much evident in development policy. The greatest hurdle may well be a degree of complacency (and thus inertia) on the part of the GoB (and the corporates), a problem directly related to past success. Botswana is a clear case of a country where initiatives to raise the profile of RBP could be crucial.

RESOURCE DOCUMENTS

1. BIDPA [1999] 'The New Policy on Small Medium and Micro Enterprises' *BIDPA Briefing*
2. BIDPA [2002] 'BIDPA Briefing: Quarter 4, 2002'
3. Clover, J. [2003] 'Botswana: Future prospects and the Need for Broad-Based Development', Situation Report, Institute for Security Studies, Johannesburg
4. Gaolathe, B [2003[] Minister of Finance and Development Planning *Budget Speech*, Republic of Botswana
5. Gaolathe, B. [2002] Minister of Finance and Development Planning, *Presentation speech on the Draft National Development Plan 9 2003/04-2008/09*
6. Genesis Analytics [2003] *Access to Financial Services in Botswana* Finmark Trust Research paper No. 1, March
7. Maipose, Prof. G.S. 'Economic Development and the Role of the State in Botswana' (in) *DPMN Bulletin* Vol. X No 2 April 2003
8. Mogapi, S. [2002] 'Debswana suspends construction for shortage of citizen contractors', *The Botswana Gazette*
9. MTI [2003a] *Regulations for Foreign Investors*

10. MTI [2003b] 'Bill seeks to establish a small business council' (from website of the Ministry of Trade and Industry), December

11. Presidential Task Group on a Long Term Vision for Botswana (1997) Botswana National Vision 2016

12. Republic of Botswana/European Community [2001*] Country Strategy Paper and Indicative Programme for the period 2002-2007*

13. United Nations Conference on Trade and Development, Investment *Policy Review Botswana*, Sept. 2002, Geneva

2

GHANA

GLOSSARY

CDF	Comprehensive Development Framework
CPSDS	Comprehensive Private Sector Development Strategy
ERP	Economic Recovery Programme
Fdi	Foreign Direct Investment
FIAS	Foreign Investment Advisory Service
GIPC	Ghana Investment Promotion Centre
GoG	Government of Ghana
GPRS	Ghana Poverty Reduction Strategy
HIPC	Highly Indebted Poor Country
IMF	International Monetary Fund
MPSD	Ministry of Private Sector Development
NED	National Economic Dialogue
RBP	Regulatory Best Practice

INTRODUCTION

Ghana has been engaged in a continuous process of liberalization probably longer than any other country in Africa, starting with a World Bank Structural Adjustment exercise (the Economic Recovery Programme [ERP]) initiated in the mid-1980s under military rule.

The liberalisation process accelerated after the return to civilian government in 1992 and there are areas of considerable progress. What emphasis there is on RBP in the present phase follows most visibly from the proclamation of 'a golden age of business', announced by President John Kufuor at his inauguration on 7 January 2001.

New initiatives following from the president's announcement build on a number of processes started in the 1990s (see below). But while both initiatives since the inauguration of President Kufuor and the older processes have had some impact, awareness of RBP appears patchy nonetheless. One result is that, against some indicators, Ghana's regulatory performance appears very poor indeed. In 2002 the World Bank's *Doing Business* index showed Ghana's regulation of entry to be among the poorest in the world[2]. But this index may well be misleading. Ghanaian contacts argue that 'it does not correspond to reality of the ground' and say this year's FIAS report (which we have not yet obtained) records a much better set of indicators.

Ghana is unusual in the African context, in that RBP is explicitly an aspect of national growth strategy. This is apparent in the Comprehensive Private Sector Development Strategy [CPSDS] (see below).

MACROECONOMIC STABILISATION

It is probably the case that governments will only focus on RBP once macro-economic stability has been achieved. In that context, questions about why growth is not as dramatic as expected and why job creation tends to be limited assume a fresh sharpness.

In Ghana, limited success at achieving macro-economic stabilisation, has resulted in this fundamental aspect of policy being the main focus. Between 1998 and 2000, the Ghanaian currency fell from 2, 340 to 6, 000 to the US dollar while in the same period price levels rose by 34%. Ghana qualified for World Bank HIPC debt relief in 2001, an important step on the road to stabilization in terms of relieving pressure on the country's national budget.

Ghana, it might be argued, is virtually a test case of how RBP should be a part of macro-economic stabilization policies, rather than something to be added on once stablisation has been achieved. However what has been particularly noticeable about macro-economic policy in Ghana is how 'weak' it has been during elections (IMF [2003], *IMF Country Report: Ghana*, Washington, May 2003, p. 5). The poor government track record, when it comes to

[2] According to this index, in Ghana it takes 126 days to register a business at a cost equivalent to 97.5% of GNI/capita.

managing political demand from the public sector during elections, suggests that the Kufuor government will have it all to prove when it faces the same constituency over implementation of RBP.

THE GOLDEN AGE OF BUSINESS

Although President Kufuor's inaugural speech opened the way for a renewed focus on RBP, the concept was not mentioned in the speech.

In order to implement the vision, the GoG has established a Ministry of Private Sector Development (MPSD) based in the President's Office. While the MPSD is the only ministry of the GoG not to have an official website, it clearly has RBP as a fundamental element of its mandate. The website of the Ghanaian Embassy in Denmark says that a part of the MPSD's mandate is 'removing various bottlenecks that inhibit legal, financial and economic progress'.

In a speech in July 2003, Kwamena Bartels, Minister for Private Sector Development, GoG, (Bartels, K. *Press Briefing at the Conference Room of the Ministry of Information*, 15/07/2003, attached), listed 'legal and institutional reforms' as one of the MPSD's four primary functions[3]. Later in the same speech he referred to the need 'to make the business environment more investor friendly … in order to achieve 'The Golden Age of Business''. In order to achieve this, the MPSD is represented on a steering committee 'charged with the responsibility of reducing the cost of doing business in Ghana'.

The Foreign Investment Advisory Service (FIAS) Investment Policy/Administrative Barriers report of 1995 has been updated. According to the FIAS website, 2 documents were under preparation for 2003, both described as 'Administrative Barriers' Reports. This has to be interpreted as a signal of commitment to RBP, as this agency of the World Bank/IMF undertakes studies only at the request of national governments.

A fundamental principle of RBP is that those most immediately affected – the private sector generally and small business interests in particular – are represented in policy making and able to advance their views. President Kufuor has adopted a policy of National Economic Dialogue (NED) to discuss economic policies with relevant stakeholders, notably the private sector. At the third NED conference, President Kufuor said that 'government would continue to streamline taxes and business systems and create an environment where business became more efficient and profitable' ('Govt cannot be sole provider to private sector – JAK', *Business News*, Wednesday 28 May 2003). He added 'it is hoped that the reduction of stifling bureaucratic practices (would) lead to expansion of the formal economic sector'. The point was also made by Henry Mensah, senior minister and head of the Government

[3] The other three are 'innovation and entrepreneurship' (i.e. support); 'public/private partnerships'; and 'policy planning, monitoring and evaluation'.

Economic Management Team, in the National Assembly (Mensah, H. [2002] 'Ghana: Golden age of business, task for all – Mensah', *Accra Daily Mail*, 10/12/2002)

THE COMPREHENSIVE PRIVATE SECTOR DEVELOPMENT STRATEGY

This programme is co-ordinated by the MPSD. The programme is at present awaiting a report by consultants (Bruks Associates). A representative of that company has been quoted in the Ghanaian press as saying the primary focus is on 'the barriers and constraints facing private sector development' and that 'the aim is to create an enabling environment for business' (Denick, L. [2003] 'Gov't keen to Show Progress On Golden Age of Business', *Ghanaian Chronicle*, Accra, August 21 2003). The initiative is funded by DFID and DANIDA

OTHER INITIATIVES

The Ghana Poverty Reduction Strategy Paper

The interim paper was developed in 1995-6. Production of the PRSP commenced July 2000. The Ghana Poverty Reduction Strategy (GPRS) itself is dated Feb 19 2003 (Govt. of Ghana [2003] *Ghana Poverty Reduction Strategy 2003-2005: An Agenda for Growth and Prosperity)*.

The 2003 document is strong on the appropriate role of the private sector. The first page of the Executive Summary says that poverty reduction requires 'the active involvement of the private sector as the main engine of growth and partner in nation building' (Govt. of Ghana [2003], ibid, p. i.). Page iii. stresses the creation of an enabling environment.

However awareness of RBP in the GPRS is limited. Page vii. of the Executive Summary argues for the need to 'streamline government bureaucracy' and in the main body of the text, 'the state must have limited economic objectives … normative and regulatory functions' (p. 35). While this constitutes a laudable commitment to private sector-driven development, it is not RBP.

The only real RBP statement appears in the section entitled 'Rural Development and Industrialisation': 'Ghana must industrialise … policies need to create an enabling environment for FDI and technology transfer include infrastructure development, establishment of a legal framework for protecting property rights, contract enforcement and land tenure reform' (p. 38). But even this does not constitute outright commitment to appropriate regulation let alone a review of the existing system.

Ghana Vision 2020

Adopted 1996. The Vision established development objectives in 5 areas, including the enabling environment[4] and was informed by the Interim PRSP. Ghana Vision 2020 led directly to the Comprehensive Development Framework (see immediately below) and has thus been an important part of the process towards RBP. However the Vision has essentially been abandoned by the new government which talks of becoming a middle income country by 2010.

The Comprehensive Development Framework

Initiated 1999. A World Bank initiative in which Ghana was one of several pilot projects. The CDF approach emphasized consultation. A number of sectoral working groups produced reports. The overarching report treats the private sector as one of 10 defined 'sectors', although it is discussed first and does make one RBP point: That 'the Gateway Programme … aims to remove all bureaucratic and regulatory impediments that could undermine productive investment' (Ministry of Finance, [1999], *First Draft Comprehensive Development Framework towards Ghana Vision 2020*, Govt. of Ghana, Nov 1999, p. 10).

A Sector Issues Paper, compiled by the CDF Working Group on Private Sector Development injected some RBP awareness into the process (Private Enterprise Foundation [1999] *Comprehensive Development Framework: Private Sector Development*). The paper suggests, under the heading 'Challenges and Problems' that 'other problems include institutional rigidities such as cumbersome customs procedures for clearing imports and other administrative procedures' (p.4). It goes on to say 'commercial disputes could also take a long time to be resolved at the traditional courts' (p.5); and that 'the multiple nature of land ownership … poses a big constraint to investors' (p.6). The paper refers approvingly to Vision 2020, in so far as it is intended to develop 'an effective regulatory and promotional framework' (p.6).

Investment Code (1994)

The IMF says the investment code 'was considered to be the best in Africa at the time' but is 'in need of updating, as evidenced by a net foreign disinvestment from Ghana's mining sector in recent years'. (IMF [2003], *IMF Country Report: Ghana*, Washington, May 2003, p 10). The code, among other things[5], 'simplified the administrative steps for the start-up of a foreign-owned company' (IMF, ibid p.11). The website of the Ghana Investment Promotion Centre (GIPC) suggests some aspects of RBP, notably giving the authorities 5 days to complete registration of companies as well as their registration with the GIPC. The code

4 The other areas were macroeconomics, human development, rural development and urban development.

5 It also: Protected firms against expropriation; and provided corporate tax and duty incentives.

does however run contrary to RBP ideas in reserving certain categories of enterprise for Ghanaians (GIPC [2003] 'Provisions Relating to Investment', Ghana Investment Promotion Centre website, p. 1)

Small Business Policy

There is a Draft Policy Paper on Micro and Small Enterprise Development for Ghana, dated May 2002. But this is not a White Paper and is not official. Small business policy is to be dealt with as part of the Comprehensive Private Sector Development Strategy (see above).

CONCLUSION

Ghana has demonstrated considerable awareness of RBP at the senior policy-making level. The proclamation of a Golden Age of Business, the current CPSDS process, the establishment of a Ministry of Private Sector Development and the commissioning of the recent FIAS Administrative Barriers report, are all promising signals. Compared with some other African countries, Ghana has had a relatively long time to establish the philosophy of private sector led growth and may be in a position to move relatively rapidly towards RBP under the Kufuor government.

The immediate challenges appear to be the need to consolidate political commitment, and to consolidate private sector representation in order to provide a countervailing weight to the inertia of, and vested interests in, the civil service. It has not been possible to adequately research the current status of institutional reform (if any), at this distance, utilizing a desktop methodology – but this will undoubtedly be a key determinant of the success of the Kufuor government's ambitions.

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3

KENYA

GLOSSARY

DFID	Department for International Development
ERS	Economic Recovery Strategy for Wealth and Employment Creation 2003-2007
GoK	Government of Kenya
I-PRSP	Interim Poverty Reduction Strategy Paper
KBC	Kenya National Business Council
KDP	Kenya Deregulation Project
KEPSA	Kenya Private Sector Alliance
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KNCCI	Kenya National Chamber of Commerce and Industry
MLSP	Ministry of Labour and Social Policy
MOTTI	Ministry of Tourism Trade and Industry
MPND	Ministry of Planning and National Development
MSE	Micro and Small Scale Enterprises
NRC	National Rainbow Coalition
PSF	Private Sector Forum
PRSP	Poverty Reduction Strategy Paper
SBP	Single Business Permit

INTRODUCTION

Kenya experienced a change of government at the end of 2002. There are hopes that the new ruling party, the National Rainbow Coalition (NRC) under Mwai Kibaki, will be especially receptive to RBP ideas. The Kibaki government has promised strong measures to address corruption and prudent fiscal management. The World Bank and IMF had severed links with the previous government over its failure to tackle corruption (Afrol News [2003] ‘Kenya finds support for economic policy’, afrol.com).

However there is a longer history of RBP ideas circulating in Kenya, going back 8 years to the establishment of the DFID-funded Kenya Deregulation Project (KDP) in 1996 (see below) and an initiative – driven by the KDP – towards implementation of a Single Business Permit (SBP). Awareness of RBP thus goes back to the previous government (see for example Okemo, C. [2000] (Minister for Finance) Budget Speech, pp. 26 and 27, on the SBP). This history of RBP, longer than most developing countries, is significant in the institutionalization of the concept.

Kenya has pursued market-based economic development throughout the period of independence. However in the second half of the 1990s, growth faltered, falling under 2% for 1998-2000. This translated into an actual decline in GDP/capita for this period. The IMF attributed this to ‘stop-go macroeconomic policies, slow structural reform, and pervasive governance problems’ (afrol [2003b] ‘Kenya’s economic and financial performance indicators’, afrol.com).

THE ECONOMIC RECOVERY STRATEGY FOR WEALTH AND EMPLOYMENT CREATION 2003-2007

The Economic Recovery Strategy for Wealth and Employment Creation 2003-2007 (ERS) constitutes the main statement on policy intent on the part of the new government of Kenya (GoK). There is, not unexpectedly, evidence of awareness of and commitment to RBP in the document. Although a private sector representative has noted, ‘the ERS is pro-private sector and incorporates virtually all the proposals the private sector presented’ (Awori, D. [2003] p.4], it might be suggested that RBP principles are less integrated into the main policy thrusts presented than might have been hoped.

The document certainly starts well. The (one page) *Foreword* by President Mwai Kibaki argues that ‘poor governance has been one of the major causes for the collapse of the Kenyan Economy’ and that ‘by raising the cost of doing business, bad governance discouraged credible investors’. President Kibaki goes on to state that the GoK has placed economic ‘recovery’ at the top of its agenda. And that ‘top achieve this objective we will need to create an enabling environment in order to encourage both domestic and foreign investors’ (p.xi). The statement by Hon. P. Anyang’ Nyong’o, Minister for Planning and National Development affirms this direction. He writes ‘we are determined to create a friendly and affordable environment for investment and doing business in Kenya’ and, in accordance with RBP principles, observes that 'a good tax regime … (avoids) invite(ing) calculated evasion by the taxpayers' (p.xv).

The main body of the document explicitly espouses regulatory reform and commits the GoK to establishing a Commission to review all business related regulations (p.18 repeated on p.75 in the implementation matrix). This appears to be an opportunity for advocates of RBP as the findings of the Commission will be used to formulate a strategy and action plan. It should be noted that the ERS does not explicitly promise to include representatives of the private sector in the commission.

However it might be suggested that the ERS misses some opportunities to entrench RBP is its fabric. The main reference to regulatory reform is a single paragraph in the 62 page main body of the document. The section on cross-cutting issues (pp. 51-57) makes no mention of regulatory issues, while neither corruption or immigration problems (both p. 71) are linked to regulation. In the sections on 5. 'Infrastructure', 6. 'Productive Sectors', 7. 'Equity and the Socio-economic Agenda' and 8. 'Arid and Semi-Arid Lands' (pp 20-50), there is only one RBP type reference. This is in the section entitled 'Trade and Industry' (p.35) where the GoK promises 'an Investment Code that consolidates into one Act all incentives, property rights protection and institutional arrangements in order to reduce the red tape and cost of bureaucracy'.

The ERS does promise policy priority to small business enterprises (see below).

CONSULTATION WITH THE PRIVATE SECTOR

Kenya, with a single umbrella organisation to represent the private sector – the Kenya Private Sector Alliance (KPSA) – has already overcome the main potential stumbling block to providing for a private sector voice in policy formulation.

As recently as 2001, a study commissioned by Bannock Consulting pointed out that business representation was disjointed and that the private sector engaged 'only in traditional lobbying around budget time' (Davis, C. and Okech, C. *Improving the Enabling Environment for Indigenous Enterprise Development and Investment. Country Study: Kenya*. (2001) p.4). Dennis Awori says: 'In the past, the private sector agenda had been promoted though individual or small groupings of sector associations' (Awori, D. [2003] pp. 4/5]. This however changed when the Private Sector Forum (PSF) was formed in 2000 to provide collective private sector input into the PRSP process (see below). The Kenya Private Sector Alliance itself says '(in the past) dialogue was fragmented' (KEPSA [2003], p. 5)

With support from DFID, a series of private sector consultative meetings were held, spearheaded by the PSF. These led to the formation of the Kenya Private Sector Alliance (KEPSA) after the Economic Recovery workshop held in Mombassa in February 2003 (Kenya Private Sector Alliance [2003] p.4). That there is desire on the part of the GoK to consult is demonstrated (over and above the PRSP and ERS processes) by the fact that it wss the GoK which ‘challenged the private sector to unify’ (KEPSA [2003] p.4]. In addition to the RBP boost of the very fact of its existence, two of KEPSA’s 5 goals have strong RBP implications: ‘To strengthen and rejuvenate the private sector so it can be the engine of growth, creating employment and wealth’; and ‘To ensure the formulation of policies that encourage both domestic and foreign investment and pursue regional, continental and international economic opportunities’ (KEPSA [2003] p.5)

This opening provided by government also adds to the opportunity to consolidate RBP ideas in policy-making. The ERS accepts this role and promises to create a National Economic and Social Council (GoK, ERS, p.xv) and ‘strengthening the Monetary Policy Committee by expanding its membership to include people from outside government’ (p.5). This is encouraging from an RBP perspective.

It should not be assumed that the task of creating a single over-arching voice for the private sector is either harmonious or complete. There are business alliances other than the PSF with macro-level ambitions, including the Kenya National Chamber of Commerce and Industry (KNCCI), the Kenya Business Council (KBC) and an EU backed initiative known as FOSEDEP. The position among these organisations as it stood at the end of 2002 is spelled out in David Irwin’s paper.

THE PRSP

The Interim PRSP is dated July 13, 2000 (IMF [2000], *Kenya: Interim Poverty.Reduction Strategy Paper*). RBP ideas make a strong appearance in the I-PRSP. One reason for this is strong input from the private sector which formed the Private Sector Forum (PSF) for this specific purpose, in December 2000. 74 private sector associations came together and elected a 10 person Task Force to not only coordinate inputs but also to monitor implementation ((Awori, D. [2003] p. 3]. KEPSA vice chairman Dennis Awori notes that the PRSP process represented the first occasion on which ‘The government consulted widely (with the private sector). (Awori, D. [2003] p.4].

The section in the I-PRSP on ‘Restoring Economic Growth’ says rise in investment levels will only come about if ‘an enabling environment for the private sector is put in place’ (p.6). Also under same heading): ‘Government will continue its ongoing efforts to reform the tax and fee system in order to improve the investment environment’ (p.8); ‘The government will also consider … further rationalization of licences and fees’ (p.8).

In the Section ‘Improving Governance’ (p.8) reference is made to ‘removing rent-seeking opportunities’ and ‘introduc(ing) greater transparency in public procurement and contracting procedures’. But the RBP links are not explicitly spelled out in either case.

The PRSP later emphasises economic growth and RBP as a means to achieve this end. In ‘Sector Policies and Priorities’ (a section which comprises about one-third of the document), the mission of the Ministry of Tourism Trade and Industry (MOTTI) is to ‘facilitate, promote and champion' the private sector and to create a positive enabling environment for business' (p.23). In the same section, the first 'Action' promised in the Trade and Industry sector is 'substantially reducing regulatory and licencing requirements'. This means '(i) Eliminating all requirements for trade licencing acts which constrain, control and impose costs on business without adding value'; (ii) 'Raising public awareness about streamlined local authority licencing'; and (iii) Increasing the efficiency of the commercial courts' (p.23).

THE KENYA DEREGULATION PROJECT

This project was launched with DFID support in 1996, Originally located in the Ministry of Planning and National Development (MPND) and later the Ministry of Labour and Social Policy (MLSP), the project is now located in the semi-autonomous think-tank, the Kenya Institute for Public Policy Research and Analysis (KIPPRA). DFID has absorbed its support for the KDP into a wider project the Umbrella Project for Improving the Enabling Environment for the Private Sector, launched in Oct. 2001. The KDP started with a compliance cost study which identified three particularly problematic regulatory hurdles to private sector development: 1) Titles to land or property; 2) Access to finance; 3) Licences required for business operation (Gamser, M. [2003] p.2).

The third of these cases is where the most progress has been made (see below). However while research has clearly identified regulatory problems – convincing even the previous government – no government ministry has emerged as a champion for RBP (Gamser, M. 2003, p.5). KIPPRA does not have a direct lobbying mandate. For this reason, a review by the donor agency recently recommended contracting out implementation of reforms to another party (Scott, H and Darroll, C.). Bannock [2001] was fairly harsh on the outcomes of the KDP, suggesting that the introduction of the SBOP, described in more detail in the next section, 'is the only significant concrete achievement in regulatory reform for which it (the KDP) can take credit' (p.1). But it does note that the KDP has also provided policy input on urban regulation, land, financial services and 'ill-conceived legislation on interest margins' (p.1). Bannock singles out 'lack of political will' on the part of the GoK (i.e. the previous government) as the key constraint.

THE SINGLE BUSINESS PERMIT

The most developed aspect of RBP implementation in Kenya is the move towards a single business permit (SBP). The initiative however still falls short of full implementation. Nevertheless a review of the KDP by Bannock Consulting in 2001 says 'the introduction of the SBP on 1st January 2000 at local authority level remains the most prominent result of the deregulation Projects work' (Bannock [2001] p.7)

Research conducted by the Nairobi-based Institute for Development Studies in the late 1990s established that streamlining the business licencing system would produce an annual saving (to the private sector) equal to 1% of GDP (Gamser, M. [2003] p.3.). The reforms required a rationalisation of diverse tariff structures, rationalisation of the roles of central and local governments, procedural reforms and consistency across sectors (Devas, N. and Kelly, R. [2001] p. 385).

Action was taken in 1999 requiring that local authorities replace 'the opaque multipler licencing system' with SBP (Gamser, M. [2003] p.3). The Finance Act of 2000 establisghed the principle that local authorities share of national revenue would be determijned by performance in implementing SBPs. The Ministry of Finance agreed to eliminate central; government trade licencing and pushed through a cabinet memorandum to amend the necessary 13 acts to give force to the reform. Unfortunately, at the time of writing, the cabinet of the GoK has not acted on the memorandum. The recent elections and the fact that the policy was accepted by the previous government blocked and continues to block implementation, despite the new government's RBP-friendly stand.

SME POLICY

KIPPRA researchers (Ronge, E. Ndirangu, L. and Hezron, N. 'review of Government Policies for the Promotion of Micro and Smallscale Enterprises' KIPPRA Discussion Paper No. 20 Nov. 2002) point out that official policies relating SME development to RBP ideas go back to at least the 1986 Sessional Paper and the subsequent Small Enterprise Development Policy Project, which they describe as being founded on a vision of the 'role of government' as facilitative rather than interventionist' (p. 26). But the policies as spelled out in this paper appear to have been somewhat ambiguous and 'there has been little policy implementation' (p. 55).

1992 – stakeholder involvement introduced to SME policy formulation. But 'policy … failed to recognize the heterogeneity of the sector' (p. 52-53). Trade licence reform only began with entry of DFID's Deregulation Programme (p. 53)

The KIPPRA paper itself is strong on advocacy of RBP (see e.g. p. 42).

The actual draft White Paper on Small Business Development (2003) was prepared by consultant Graham Bannock. The paper is not publicly available yet but an interview with Mr. Bannock suggests that RBP ideas were strongly represented in the document.

CONCLUSION

Kenya's levels of RBP awareness are among the highest identified in this study, exceeded only (marginally) by Uganda. The link between poverty alleviation and RBP is clear in the PRSP, organised business has a role in policy-making and is represented by a single umbrella group, there is an embryonic RIA unit in the form of the deregulation project, a significant RBP measure (partially implemented) in the single business permit and an exem plary RBP-oriented draft SME White Paper. Most significant is the fact the RBP is reflected in the new NRC government's primary macro-development paper, the ERS.

Even in this case, however, there is considerable room for consolidation of RBP on the agenda. Beyond this, the central issue, as always, is implementation. It is likely that the election of a new government will facilitate RBP implementation rather than hindering it. The new ruling party both has a reform mandate and appears strong on RBP. It might be argued that, given this promising conjunction of factors, there is a need for a stronger than ever push by advocates of RBP.

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4

LESOTHO

GLOSSARY

AGOA	Africa Growth and Opportunity Act
BEDCO	Basotho Enterprise Development Corporation
CTB	Central Tender Board
FIAS	Foreign Investment Advisory Service
GoL	Government of Lesotho
I-PRSP	Interim Poverty Reduction Strategy Paper
LCCI	Lesotho Chamber of Commerce and Industry
LEA	Lesotho Exporters Association
LEmA	Lesotho Employers Association
LMA	Lesotho Manufacturers Association
LNDC	Lesotho National Development Corporation
LRA	Lesotho Revenue Authority
MTICM	Ministry of Trade, Industry, Cooperatives and Marketing
NPSTT	National Procurement System task Team
PRSP	Poverty Reduction Strategy Paper
RBP	Regulatory Best Practice
RIA	Regulatory Impact Assessment
SACU	Southern African Customs Union
US	United States (of America)
VAT	Value Added Tax

BACKGROUND

Lesotho is a small, poor land-locked country surrounded by South Africa. It has historically had a state-centric economy (government expenditure accounted for 46% of GDP in 2001). The biggest sources of revenues have been a share from the Southern African Customs Union (SACU) [50% of government income] and mineworkers remittances from South Africa. With both these sources of revenue in decline, there has been a recent upsurge of interest in private sector development. Poverty has been exacerbated in recent years by political instability.

A window of opportunity for private sector development in Lesotho was opened with the 1999 Africa Growth and Opportunity Act (AGOA). This has seen considerable foreign investment from Chinese clothing manufacturers, producing for the US market. Employment in the industry has grown to over 40, 000 in less than 10 years.

Recent processes (see below) have created some degree of awareness of RBP in Lesotho, as evidenced by the country's *Poverty Reduction Strategy Paper* (PRSP). But as most educated Basotho are employed by government, RBP processes are mostly donor funded and both private sector advocacy and public debate are weak (the press is tiny) there must be doubts about the depth of commitment to the concept.

Indigenous analyses in Lesotho repeatedly emphasise the absence of a local entrepreneurial culture. Sechaba Consultants, for example, write that '(local citizens) have become conditioned to associate 'work' with the provision of 'jobs' created by others (Secaba Consultants [2000] p.4). While 'culture' is in no way an autonomous variable in its own right, there does seem to be a strong tradition of 'dependency' in Lesotho which suggests that the prospects of an RBP agenda being driven by local civil society are, at present, remote.

POVERTY REDUCTION

Lesotho's Interim Poverty Reduction Strategy Paper (I-PRSP), published in December 2001, showed a considerable degree of awareness of the link between RBP and poverty reduction. The I-PRSP commitments the country to 'strong economic growth' as a basis for 'sustainable improvements in the poverty situation' (I-PRSP, p.2). There is, by the standards of other PRSP's from around the continent, a high degree of commitment to RBP in this document.

The I-PRSP says the Government of Lesotho (GoL) is committed:

> '... to continue the process of market reform and liberalisation, to create an enabling environment for private sector investment and growth and (to) explore the need to provide a more amicable environment for private sector development through the carrying out of appropriate legal and judicial reform programmes'. (I-PRSP, p. 9)

Many key RBP issues were injected into the process by the private sector. It should not be assumed that the private sector's participation was particularly strong or consistent. But by getting into he process after June 2002, thanks to the World Bank (and other donors), some impact was possible (see Khalapa Development Agency [2002]),

The final PRSP apparently shows the same awareness. Its production has however been delayed and no copy is available at November 2003. One of the primary reasons for the delay was the desire of the GoL to merge the I-PRSP with its National Vision.

WHITE PAPER ON SMALL BUSINESS DEVELOPMENT

A draft White Paper on Small Business Development, funded by Ireland Aid was commissioned by the Ministry of Trade Industry and Marketing (MITM), GoL, in 2001. Completed in December 2002, the paper is centred on RBP ideas. It advocates removing regulatory barriers to private sector development, including tax discrimination against trading enterprises, scrapping the reservation of trading licences for locals and streamlining business entry.

The recommendations of the draft White Paper are explicitly linked to reforms in land tenure and ownership rights, the status of women (at present legal minors under Basotho traditional law – a situation to be rectified by the *Married Persons Equality Bill* currently before parliament), the public tender process and the establishment of the Lesotho Revenue Authority (LRA), launched in 2002. The first of these two reforms are an integral part of RBP as communal land tenure and legal gender discrimination are also hurdles to private sector development. The draft White Paper recommends that the third and fourth reforms are informed by RBP principles.

Key recommendations include the suggestion the Regulatory Impact Assessments (RIAs) be mandatory for all new legislation, that a regulatory review be conducted and that special task Forces be established to deal with issues of access to finance and the taxation system which discriminates against indigenous business. The draft White Paper suggests a review and complete restructuring of Lesotho's highly interventionist (it actually runs factories) public small business support organisation, the Basotho Enterprise Development Corporation (BEDCO).

LAND REFORM

The Land Policy Review Commission under Mr. Justice Ramodibedi (generally referred to as the Ramodibedi Commission) released its report on 29 September 2000. Generally speaking the report is very strongly in favour of a move away from existing communal ownership (with some leasehold options) towards private ownership. All land in Lesotho is held by the monarch. The problem, recognized by the commission and other analyses (see e.g. Genesis Analytics [2002] p.38; FIAS [1996]; also recognized by the Central Bank of

Lesotho in 2002) is that it is extremely difficult to use land as collateral in Lesotho. Among other things, the Minister of Local Government has to give permission for each case where a bond is registered as collateral. Administrative delays and the extremely complicated process of realizing collateral mean that local banks are unwilling to lend money.

Land reform would be an extremely important measure from an RBP perspective. However the fact that the 2000 Ramodibedi Commission report has still not generated action is indicative of the political complexity of the issue in a country where power is balanced between a modernizing civil service and a powerful rural lobby of traditional authorities. The very process of alienating communal land, while in theory possible, is so complicated in practice as to almost never be a practical option.

CONSULTATION

Organised business is weak in Lesotho. The strongest and most promising representative body is the Lesotho Employers Association (LEmA). Even so, UNCTAD has noted, 'the present institutional set-up does not provide for effective dialogue between government and the private sector, or within the private sector (UNCTAD [2002] p.72).

Two indigenous Lesotho business umbrella bodies, The Lesotho Manufacturers Association (LMA) and the Lesotho Chamber of Commerce and Industry (LCCI) have not been strong advocates of RBP. In so far as these organizations put their energy into special interest lobbying (e.g. local protection), they in fact tend to undermine RBP. The Taiwanese dominated textile industry has in the past engaged directly with government mostly at a firm level, and thus only pursued RBP in so far as it affects immediate operations. It was represented by an informal chamber of Commerce (Salm, et al. [2002] p 30.) Such a focus is not an optimal mechanism for promoting an RBP agenda.

The best chance of a formal garment industry employers organisation developing is probably the Lesotho Exporters Association (LEA), a focused lobby group chaired by a Taiwanese industrialist. But it is not considered to be representative of the whole sector at present.

The draft White Paper on Small Business Development suggests that the government of Lesotho challenges the private sector to develop an umbrella representative organisation. This, the White Paper suggests, is a necessary preliminary to the representation of the private sector in proposed Task Forces to deal with tax and access to finance. It says: '(Implementation of) the strategy requires consultation between public and private sectors. NGOs, trade unions and donors will be included under a wider definition of 'private sector'. .. government will seek ways, short of direct sponsorship, to strengthen (bodies representing the private sector)' (Bannock and SBP [2002] p. 26)

Some evidence that an enhanced role for the private sector has been, to a degree, accepted within the Lesotho government is provides by the 2002 report of the National Procurement System Transformation Team (NPSTT) which recommends that 4 of the 7 members of the new Central Tender Board (CTB) be members of the private sector. But some indication of the distance Lesotho has to travel before an adequate private sector input into policy is realized is demonstrated by the fact that only 2 of the NPSTT's 18 members were drawn from the private sector. But the recommendation is evidence of a shift of thinking on the part of key Lesotho civil servants.

FIAS REPORT

A FIAS Administrative Barriers report was completed in 1997. It suggested that 'success (at attracting foreign investment) is overshadowed by a long list of policy and regulatory constraints. Although FIAS detailed these, little has been done. The 2002 draft White Paper on Small Business Development, noted, politely, that the FIAS recommendations 'have only been partly implemented'. The FIAS report suggests a two pronged starget for Lesotho: 1) Lowering the costs of trading with South Africa and the rest of SACU ; 2) Establishing a competitive business environment vis-à-vis other countries in the region (FIAS [2002] p. iv). The recently established Lesotho Revenue Authority is focusing on the first part of this agenda (see below).

The FIAS study suggests a number of 'quick wins' for Lesotho. These include: making it possible for visitors to obtain multiple entry visas; revising work permit rules; extending land leases to 99 years; diplomatic arrangements making it possible to issue entry visas in countries where Lesotho does not have representation; transforming the Maseru Railhead into a modern transportation facility through clarifying property rights and leasing it (FIAS [2002] pp. x-xi). All of these have RBP implications.

TAX REFORM

The Lesotho Revenue Authority (LRA) was launched in 2002 with the support of DFID. While RBP was not an explicit goal of the Commissioner in the early months, the impending introduction of Value Added Tax (VAT) may provide a focus for the issue. The Commissioner was briefed on the application of RBP principles to VAT systems by the consultants who drew up the White Paper on Small Business Development. His declared main focus at the time was on customs and excise matters – also issues that require the application of RBP principles.

THE GARMENT SECTOR

A sectoral study of the garment sector, funded by DFID and completed in January 2002 identifies the key constraints to the development of this the key sector of the Lesotho economy (Salm et al [2002]). While some key constraints are beyond the control of the GoL (e.g. uncertainty at the time over the future of the US Africa Growth and Opportunity Act [AGOA]) or related inadequate infrastructure, the study is informed by RBP principles and points to a range of RBP interventions to remove hurdles. It recommendations include reforms to industrial relations (p.42), and reforms to the customs and excise regime (p.52), both key RBP issues. Interestingly, in industrial relations, the recommendation is to move towards appropriate regulation, not simple deregulation. This involves, among other things, the application of a voluntary code of conduct by investors in the garment industry.

OTHER

Outside the 2002 draft White Paper, RBP has not been mentioned in public debate. However in an underdeveloped state dominated society with a very weak media, public debate is probably much less important to establishing an RBP agenda than processes within government.

Significant institutional reforms include a recent restructuring of the Lesotho National Development Corporation (LNDC). This organisation's primary role was originally the facilitation of foreign investment which brought about the not untypical scenario, for a developing country, of foreign investors benefiting from regulatory streamlining while indigenous business remains mired in red tape. The restructuring has given the LNDC a much wider domestic mandate (competing to a degree with BEDCO) which may see some pressure for the extension of its insights into RBP to the benefit of the indigenous private sector.

CONCLUSION

Lesotho appears to stand at a crossroads of opportunity and the optimal path requires that RBP be incorporated into the country's national growth strategy. Conceptually, the links between poverty reduction, private sector-led development and RBP appear to have been grasped in some quarters of the GoL. Consolidation (of the RBP on the agenda) and actual reforms are the obvious next steps.

Many necessary reform processes (land tenure, the status of women) are underway. Donors appear to be pushing hard for RBP, which may be necessary given the weakness of the organised private sector and the strength of entrenched interests (traditional leaders and the civil service in particular). Some institutional reform has moved in the right direction (the LRA, the CTB) but much is outstanding (BEDCO, arguably the LNDC). As is the case in so many case study countries, political commitment will prove to be crucial here.

RESOURCE DOCUMENTS

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5

MALAWI

GLOSSARY

CABS	Common Approach to Budgetary Support
CAP	Country Assistance Plan
CEM	Country Economic Memorandum
DTIS	Diagnostic Trade Integration Study
EAGER	Equity and Growth through Economic Research
IF	Integrated Framework
LDC	Least Developed Country
MCCCI	Malawi Confederation of Chambers of Commerce and Industry
MEJN	Malawi Economic Justice Network
MIPA	Malawi Investment Promotion Agency
NAG	National Action Group
NEC	National Economic Council
NIF	National Investment Forum
NORAD	Norwegian Agency for Development
PRGF	Poverty Reduction and Growth Facility
SAC	Structural Adjustment Credit
SSPPD	Support Services for Programme and Policy Development
UDF	United Democratic Front
WGI	Working Group on Investment
WTO	World Trade Organisation

INTRODUCTION

Malawi has once of the lowest per capita incomes in Africa. Its economy has been depended on agricultural exports for many years. Agriculture provides livelihoods for nearly 80% of the population contributing 36% of GDP. It is estimated that agricultural exports account for 85% of export earnings of which tobacco is the main source.

The macro economic instability in Malawi has caused significant problems for the private sector. Up until December 2000 the Government had been receiving credit facility from the World Bank and IMF. These were suspended due to concerns over the Government's ability to manage public spending. With the absence of these resources the Government has had to rely on tax revenue and borrowing from the local market. The Government has a substantial domestic debt that has been fuelled through the issuing of Treasury Bills. With interest rates close to 50% and inflation at between 10%-25% the private sector is finding it difficult to expand. In fact the manufacturing sector has contracted by nearly 25% over the past two years. Contributing to these macro economic problems has been the Kwacha, which has lost over half its value in the past three years.

Malawi is expected to hold elections in May 2004 and while President Muluzi is not able to run for a third term he has selected a successor for his political party, the United Democratic Front (UDF). Mr. wa Mutharika who is the current Minister for Economic Planning and Development (MEPD) and chosen successor to Mr. Muluzi is expected to win next years election.

Malawi's Parliament has 193 members of which 46 are Ministers and 2 are Vice Presidents. The four key Government players who drive economic policy in Malawi are:

- Mr. wa Mutharika (Minister of Economic Planning and Development)
- Mr. Jumba (Minister of Finance)
- Mr. Mpasu (Minister of Commerce and Industry)
- Mr. Malawezi (Vice President)

The Ministry of Economic Planning and Development is the central policy formulation body. In 1997 this Ministry was changed into the National Economic Council (NEC) and in March 2003 was subsequently transformed back to a Ministry.

In early 2003 the Government of Malawi published their Poverty Reduction Strategy Paper (PRSP). The PRSP is based on four pillars, these are;

1. Promote rapid sustainable pro-poor economic growth and structural transformation.
2. Enhance human capital development.
3. Improve the quality of life of the most vulnerable.
4. Promote good governance.

The first pillar which relates to the economy, aims to empower the poor by ensuring *macroeconomic stability* and *access to credit and markets*. While the PRSP does describe what the Government would like to achieve, it does not define how it will achieve it.

INTERNATIONAL ORGANISATIONS AND DONORS

With a weak economy and growing poverty Malawi has relied heavily on international donors to bring resources and capacity into the country. The European Union, DFID, NORAD and SIDA have formed the Common Approach to Budgetary Support (CABS); their intention is to provide basket funding to the Government of Malawi for implementing their Poverty Reduction Strategy. Although Malawi is not currently receiving budgetary support the donors have indicated that once the Government comes in line with IMF requirements, they would commence budgetary support. Direct budgetary support is relatively new for the donor industry and it is not clear how this will impact on the Governments approach to the regulatory framework. While the Government will have more direct control over donor money, they will be required to meet donor expectations related to governance and macroeconomic policy.

World Bank & International Monetary Fund (IMF)

The IMF's Poverty Reduction and Growth Facility (PRFG) and the World Bank's Structural Adjustment Credit (SAC) are the two instruments that the Government have used to finance their activities. The PRFG is credit financing provided to the Reserve Bank of Malawi to help them manage their monetary position. The SAC is provided to the Ministry of Finance to help them implement policy in line with the Country Economic Memorandum (CEM). Discussions between the Government and the IMF are ongoing and depending on whether the IMF is satisfied with public expenditure management they may take a recommendation to the IMF Board of Governors for PRGF Credit to resume.

The World Bank has been active in supporting Government policy formulation. Three new pieces of legislation were developed with WB support and passed in May 2002, these include:

- Public Audit Act
- Public Finance Act
- Public Procurement Act

The World Bank's focus has been on internal governance rather than promoting an enabling environment for business. Two studies which are currently being funded by the World Bank are:

- Government Capacity Assessment
- Country Financial Accountability Assessment

The IMF is arguably the most influential player in driving Government's policy agenda. If the IMF agrees to provide PRGF the World Bank and donors will follow suit and release substantial funding.

Popular opinion amongst donors is that the Government is trying to comply with IMF requirements and are pushing to have funding reinstated prior to next years elections.

UK's Department for International Development (DFID)

DFID have recently completed their Country Assistance Plan (CAP) for Malawi. The CAP details DFID's intended activities for 2003-2006. Over the three year period the DFID budget for Malawi is £189 million. By 2006 DFID expects that 50% of their money will go directly to budget support.

Much of DFID's focus will be on health, education, livelihoods and governance. The current private sector development programming is limited to supporting micro-finance, fairtrade and the National Action Group. DFID's involvement in private sector development will diminish over the next three years. DFID are seconding a Private Sector Advisor to USAID and essentially outsourcing this area to them.

The National Action Group (NAG) is the most relevant regulatory best practise initiative in Malawi. In funding terms the NAG is relatively small, receiving £170,000 over two years for the management of the NAG Secretariat.

Norwegian Agency for Development (NORAD)

The Norwegian Embassy has been supporting the Integration Framework Process. This initiative aims to mainstream trade issues into the PRSP agenda. Norway has been one of the leading donors organisations involved in private sector development and are active in both the Integrated Framework Process as well as the National Action Group.

Along with being part of the Common Approach to Budget Support (CABS), NORAD works closely with the Auditor General to improve public finance management.

United States Agency for International Development (USAID)

USAID are expanding their private sector development programme. USAID are active in micro-finance and are currently designing an agriculture linkages programme. DFID's seconded Private Sector Advisor should become involved in expanding this programme.

In 1999 USAID financed a study on the Barriers to Business Expansion in Malawi's New Policy Environment. The study was based on information collected from companies and was conducted under the *Equity and Growth through Economic Research: Public Strategies for Growth with Equity* (EAGER/PSGE) project.

USAID have also supported the development of an Investor Roadmap for Malawi. The Roadmap was developed in 1999 and while still relevant new initiatives have taken discussion related to investment forward.

United Nations Development Programme (UNDP)

As part of UNDP's Support Services for Programme and Policy Development (SSPPD) UNIDO have been contracted to provide support to the Malawi Investment Promotion Agency (MIPA). The two main components as they relate to the private sector are the:

- National Investment Forum (NIF)
- Potential investment projects are screened and profiles are developed for promotion.
- An international linkage facility managed jointly managed by MIPA and UNIDO.
- Working Group on Investment (WGI)
- Brings Government, donors and private sector together to discuss how to better attract investment.
- Sensitise civil servants to the role of investment.

Although the funding for SSPPD is coming to an end, UNDP have committed to extending the NIF and WGI.

As part of the WGI the UNDP have contracted consultants to carry out the following activities:

- Gather all legislation, codes, acts and regulations that govern investment and information on any other ongoing efforts to remedy legal / policy barriers to investment.
- Identify other major laws that may have clauses impinging on investment issues and where there may exist contradictions with investment laws and provisions of investment incentives.
- Formulate the recommendations into legal drafts that can be used as inputs by Draftsmen in the Attorney General's Office.

This is ongoing work and is expected to be completed by the end of this year.

The WGI have recently developed an Investment Action Plan that maps strategies and actions to address the following areas:

- Policy and Government of Malawi issues
- Strengthening Incentives
- Improving the Investment Process
- Institutional Support

The UNDP last year phased out their Enterprise Development Programme. This programme was carried out in partnership with the Ministry of Commerce and Industry. The programme worked on developing a regulatory framework for business and had been involved in developing the following:

- Small Enterprise Policy
- Competition Policy
- Policy on Cooperatives
- Micro-finance Code of Conduct

The UNDP have been active in promoting a better regulatory framework for the private sector. The findings of the recently commissioned assignment on the barriers to investment will provide a basis for future dialogue around improving the investment climate in Malawi.

INTEGRATED FRAMEWORK

The Integrated Framework (IF) is a global initiative aimed at strengthening trade capacity within Least Developed Countries (LDC's). Participating agencies are the World Trade Organization (WTO), the International Monetary Fund (IMF), the International Trade Centre (ITC), United Nations Development Program (UNDP), United Nations Conference for Trade and Development (UNCTAD) and the World Bank (WB).

In late 2001 the IF became active in Malawi with the objective of mainstreaming trade into the PRSP in addition to coordinating trade related technical assistance. After consultation a Diagnostic Trade Integration Study (DTIS) was commissioned. The study's main objective was to develop recommendations for programmes and policies, which Malawi and international donors can pursue in order to enhance Malawi's integration into world trade.

Included in the DTIS is an action plan covering the following priority areas;

- Macroeconomic and Social Stability (High Priority)
- Transportation (High Priority)
- Specific Sector Measures:
- Tobacco (High Priority)
- Sugar, Groundnuts & Spices, Tea, Cotton, Textiles & Clothing and Food Processing (Medium Priority)
- Customs Reform and other Institutional Capacity (Low Priority)
- Trade Policy (Low Priority)

The IF has established a Trade Policy National Working Group which has become a focal point for discussion around trade.

NATIONAL ACTION GROUP

The National Action Group (NAG) is an initiative that brings together Government, Private Sector and Donors into a forum for discussion and resolution on issues that impact on the performance of the Private Sector in Malawi. The idea for the NAG came from the National Private Sector Stakeholders Workshop held in July 2001. The NAG Secretariat was subsequently formed late 2002 with funding from DFID and is managed by Kadale Consultants and Imani Development (Malawi).

The NAG engages government at the highest level, with Ministers, Deputy Ministers and Principal Secretaries actively involved in the process.

Although the first pillar of the PRSP discusses economic development, it has been recognised by Government, private sector and donors that little was written on implementation. The NAG brought together two approaches on how address this gap. The Government wanted to develop an Economic Empowerment Strategy while the private sector and donors wanted a Business Plan for Malawi. The NAG brought these two agendas into a single process which led to the development of the Growth Strategy for Malawi.

Within six months, the NAG with significant input from the Ministry of Economic Planning and Development produced a document called the **Growth Strategy for Malawi**. The overall objectives of the Growth Strategy are:

1. To create an overall macro-economic environment conducive to broad based growth of at least 6% p.a. that is maintained over the long-term[6].
2. To ensure wide participation in and sharing of the benefits from higher economic growth[7].

The Growth Strategy Framework is built on the recognition that economic growth will be achieved through domestic and international trade as well as domestic and foreign direct investment.

Within the Growth Strategy the Government recognise their key role of setting policy and channelling resources to ensure that the overall macro-environment for doing business is attractive enough to stimulate investment and trading that actually delivers growth.

Within the Growth Strategy businesses and other stakeholders identified 28 cross-cutting constraints affecting the majority of businesses, these fall into six main categories[8]:

1. Weak **macro-economic** conditions
2. High burden of business taxation

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6 Growth Strategy Part 1

7 Growth Strategy Part 1

8 Executive Summary of the Growth Strategy

3. Weaknesses in the legal and regulatory framework
4. Weaknesses in the **infrastructure** that supports the economy
5. Weak **dialogue and co-operation** between private and public sectors
6. Weaknesses in the **Human Resource** base and skills

The Growth Strategy is divided into three parts. Part 1 presents an overview of the macro constraints facing business and strategies to deal with them. Part 2 of the Growth Strategy presents specific sub-sector constraints and strategies to address eight priority sub-sectors, these include; tobacco, tea, sugar, cotton, mining, textiles and garments, agro-processing and tourism. Part 3 of the Growth Strategy is a compilation of 12 action plans for the following sub-strategies:

1. The Cross Cutting Growth Strategy
2. The Trade Strategy
3. The Investment Strategy
4. The Tobacco Strategy
5. The Tea Strategy
6. The Sugar Strategy
7. The Cotton Strategy
8. The Mining Strategy
9. The Agro-Processing Strategy
10. The Textiles and Garment Strategy
11. The Tourism Strategy
12. The Public Sector Support Institutions Strategy

The NAG has recognised the need to collaborate with the existing programming and as such has brought the UNDP Investment programme as well as the Integrated Framework efforts on trade together into the Growth Strategy. The Trade Policy National Working Group established under the IF will take the lead in managing and implementing the Growth Strategy's sub-strategy on Trade. Likewise the Working Group on Investment established by the UNDP will work on the Growth Strategy sub-strategy on Investment. At the moment the NAG Secretariat is establishing working groups to implement the remaining 10 sub-strategies.

After several revisions the Growth Strategy is near its final draft. At this point it appears as through the three main ministries (Finance, Planning & Development and Commerce & Industry) have taken the Growth Strategy as a Government priority. While all the ingredi ents seem to be included in the NAG initiative, questions still remain on how well the Government is able to implement.

PRIVATE SECTOR

Many within the donor community have divided business into the 'private sector' and 'livelihoods'. While few people participate in the private sector with formal businesses, the vast majority of Malawians were engaged in developing a 'livelihood'. The livelihood sphere has mostly been serviced by NGO's who support activities ranging from subsistence farming to craft work. The private sector as considered in Malawi has been represented through a few sector based associations and more broadly by the Malawi Confederation of Chambers of Commerce and Industry (MCCCI). The MCCCI has not been an effective advocate in recent years, despite its links with the current ruling party in the 1990s. The MCCCI is subject to political appointment and is generally regarded by business as insufficiently independent[9]. As such the issue of private sector representation is quite delicate. The NAG has gone as far as releasing a paper on how it intends to engage the private sector. To date the NAG has engaged with many of the major companies in Malawi including the main state owned enterprises. Independent of the NAG process the private sector has not demonstrated significant influence in shaping Government policy.

CIVIL SOCIETY

Over the years donors have injected significant resources into NGO's and civil society organisations. Generally these have been focused on community level coordination. A significant development within civil society has been the formation of a Civil Society Network Secretariat managed by the Malawi Economic Justice Network (MEJN). The MEJN has recently published the results from their Service Delivery Satisfaction Survey. The survey's objective was to measure the levels of satisfaction or dissatisfaction people have with services that Government offer, in line with the priorities of the Malawian PRSP. This included areas such as health, education, agriculture, infrastructure and security. The findings were disseminated nationally as an insert in a major daily newspaper. While it is not clear how much influence civil society has in shaping Government policy they have demonstrated a high level of coordination and initiative.

CONCLUSION

With Malawi entering an election year most of the Government's focus will be on re-election and ensuring that budgetary support is reinstated. The political parties in Malawi are not divided on clear economic policy lines; rather they all tend to promote the same

9 As described in the Bannock; Malawi Case Study on Enabling Environment for Private Sector Development

'pro-poor development' rhetoric. If Mr. wa Mutharika the current Minister for Economic Planning & Development becomes President, it is expected that the Growth Strategy will become a centre piece of his agenda. Mr. wa Mutharika is said to have personally revised the final draft of the Growth Strategy.

For the past three years the focus in Malawi has been on governance as it relates to public expenditure. With the establishment of the National Action Group and the development of the Growth Strategy, efforts are being made to promote a better enabling environment for private sector development. What makes the NAG unique has been its ability to draw in high level participation from Government, donors and the private sector. What is still uncertain is how this momentum will be transformed into action. Thus far the Government's track record on implementation is poor.

It will be important for the SBP-CBC programme to engage with existing initiatives such as the National Action Group, Integrated Framework and the UNDP's Working Group on Investment. As Government, donors and private sector work to implement the Growth Strategy more support will be needed in getting detail into specific sub-strategies. While central coordination has been done by the NAG Secretariat, a lot of work still remains in policy development and implementation.

RESOURCE DOCUMENTS

1. Ministry of Economic Planning and Development (Roles and Functions)
2. Malawi Poverty Reduction Strategy Paper (PRSP)
3. Barriers to Business Expansion in Malawi's New Policy Environment
4. Investor Roadmap for Malawi
5. UNDP-Malawi Legal Framework TOR
6. Investment Strategy Action Plan
7. Integrated Framework Background Paper
8. IF: Diagnostic Trade Integration Study
9. Trade Related Projects, Overview
10. National Action Group: Background Paper
11. National Action Group: Member List
12. Growth Strategy: Part 1
13. Growth Strategy: Part 2
14. Growth Strategy: Part 3
15. NAG Mechanisms for Engaging Private Sector

6

MOZAMBIQUE

GLOSSARY

CAS	Country Assistance Strategy
CG	Consultative Group
CTA	Confederation of Business Associations
Frelimo	*Frente de Liberataçã de Moçambique*
IAS	International Accounting Standards
PARPA	Action Plan for the Reduction of Absolute Poverty
PPC	Public-Private Consultation
PRES	Economic and Social Rehabilitation Programme
Renamo	*Resistencia Nacional de Mozambique*
Udemo	*Unaio Democrática de Moçambique*

INTRODUCTION

Mozambique is a former Portuguese colony. In 1962 several anti-colonial political groups formed the *Frente de Liberataçã de Moçambique* (Frelimo), which initiated an armed campaign against Portuguese colonial rule in September 1964. After 10 years of sporadic warfare and major political changes in Portugal, Frelimo established a one-party Marxist state and outlawed rival political activity when Mozambique became independent on June 25, 1975 with Samora Machel as president. Machel died in an air crash 19 October 1986 and was succeeded as president the following February by Joaquim Chissano.

The FRELIMO government had to contend with armed opposition from the *Resistencia Nacional de Mozambique* (Renamo) which, capitalising upon peasant resistance to certain Frelimo policies in parts of Mozambique, came to serve as a opposition force inside Mozambique.

In 1990 constitutional reforms in Mozambique ended the state's formal commitment to a Marxist-Leninist single-party system. On 4 October 1992 a General Peace Agreement between Renamo and Frelimo was signed in Rome, bringing to an end a civil conflict that had completed the devastation of the countryside and the dislocation of what remained of the economy. The accord made provision for a cease-fire and for multiparty elections.

In the first multiparty elections in 1994 Frelimo secured 44% of the vote and 129 seats in the 250 member assembly. Renamo, led by Afonso Dhlakama won 112 seats with 38% of the vote. The *Unaio Democrática de Moçambique* (Udemo) took 5% of the vote and 9 seats. The remaining 13% of the vote was split among 11 other parties, none of which crossed the required threshold to secure representation in the Assembly. President Chissano was re-elected president of Mozambique with 53% of the vote to Dhlakama's 34%.

The second national elections and the first under Mozambican supervision were held in December 1999. Once again the result was close. In the presidential elections, Chissano took 52.2% of the vote, edging out Dhlakama. In the parliamentary elections Frelimo increased its number of seats to 133 to Renamo's 117.

Renamo was swift to condemn the results of the elections as fraudulent and by February 2000 was even beginning to threaten to establish parallel administrations in areas of its political dominance. The more immediate national disaster of widespread flooding on a scale almost unprecedented gave both parties pause in which to reconsider some ill-considered and virulent rhetoric, and the bitterness abated for a while.

The country's macroeconomic data have been described as 'a morass of contradiction and inaccuracy', and there are significant differences between government and World Bank sources. There are signs that this situation will be addressed now that a newly autonomous National Statistical Institute has been established and has been given foreign technical assistance.

Aid agencies in effect compete with the state for international funds for development initiatives.

GOVERNMENT INSTITUTIONS

As stated in the USAID's Annual report 2003, progressive and strong ministers are leading key ministries like the Ministry of Finance and Planning and the Ministry of Industry and Commerce, although most government institutions remain inefficient, over-centralized and under-financed. The channelling of resources to the productive sector of economy is still limited.

However, as put forward by the Governor-General of the Bank of Mozambique during the World Bank Consultation on the 4th of November 2003 the government constantly reaffirms its commitment to ensuring change in the country ('Major Actions towards Poverty Reduction, Consolidation of Macroeconomic Stability and the Development of a Sound Financial System', Bank of Mazambique). The speech outlines aspects of national development strategy, particularly those concerned with macroeconomic stability and financial markets were highlighted. Also addressed were issues related to the need for financial support and the harmonisation of donor support mechanisms for the fight against poverty.

It was reiterated that the consolidation of macroeconomic stability and the development of a sound financial system continue to be the first priority of the government's programmes. To this end, the government was looking to making its policy instruments more efficient and strengthening the banking system and in this way have a more capable financial system to contribute to attracting investments, promoting employment, increasing income, and thus growing the economy, which, it is believed, will lead to absolute poverty reduction in the country.

Although the interest rates for credit by the banking system began to decelerate from 42% in mid 2001 to 31% in late 2003, the process is still slow, reflecting among other factors:

- The low level of financial intermediation,
- High administrative and operational costs, particularly within the major banks of the country,
- High level of credit risk, associated to the lack of collateral factors, and
- Weakness of legal issue procedures,

It is recognised that the effectiveness of any monetary policy and the rational use of existing financial resources for the promotion of social and economic development requires a sound and competitive financial system, and strong supervision of the banking sector.

The results of the evaluation of the Mozambican financial sector undertaken in the context of the Financial System Assessment Programmes (FSAP) conducted by the International Monetary Fund (IMF) and the World Bank (WB) will support interventions in 2004. There are currently notable actions taking place, for instance the auditing process of the four major banks of the country aimed at outlining the adoption of the International Accounting Standards (IAS) in the sector. Other actions, specifically in the regulatory and training areas are also part of the process.

ECONOMIC SNAPSHOT

In 1987 the Mozambican government launched an Economic and Social Rehabilitation Programme (PRES), resulting in fundamental reforms of the system and the opening up of a market economy. The basic goal is to achieve financial stability at national and international level, and to reactivate the economy in a sustainable form.

The role of the State in the economy has been gradually reduced, and more space created for the intervention of private economic agents. The aim is to invigorate the economy while simultaneously enabling the state to concentrate its resources on supplying basic goods and services and implementing strategic development programme.

In the context of the reform programme, policies aimed at reducing inflation and macroeconomic imbalances and restructuring the economy continue.

The ongoing fiscal reform is part of the environment being created to promote investment. It is intended to enlarge the tax base through growth in Gross Domestic Product, and also to reduce the volume of illegal transactions. A new set of customs tariffs, containing a significant reduction in duties on equipment, was published in 1996.

Monetary policy continues to be restrictive, to help reduce the inflation rate and impose greater rigour and control in public expenditure. The aim of this policy is to channel financial resources to the banking system, and it has enabled credit limits to the private sector to be raised without having to resort to inflationary measures.

One of the government's main areas of action is the restructuring of state enterprises, in particular through the ongoing privatisation programme.

With regard to sectoral economic policies, priority goes to agriculture, on which the majority of the population depends. In addition to rural extension, particularly geared towards improving post-harvest storage techniques and extending the period of guaranteed domestic food security, a major priority is developing a rural market.

The aim is to create the structural and operational basis for expanding an active rural marketing network through infrastructure investment that will make private initiative in the marketing of cereals and other crops viable. The aim is thus to get them from the production areas to the consumer markets while at the same time guaranteeing supply of the inputs and consumer goods that peasant farmers need.

Another government priority is the transport and communications sector, given that a further premise for development is the easy movement of people and goods in every corner of the country. Major programmes are under way for road rehabilitation, to link cities, towns, districts and villages and to connect the productive areas with the markets.

INTERNATIONAL DONORS

World Bank & IMF

The World Bank and other donors fully endorse Mozambique's poverty reduction agenda defined in the Poverty Reduction Strategy Paper (PRSP) 2001- 2005 in Mozambique, also called Action Plan for the Reduction of Absolute Poverty (PARPA), which was presented to the Bank and the International Monetary Fund (IMF) Boards in 2001. Since then the PRSP has been updated in the first PRSP Progress Report of February 2003.

The PRSP/PARPA was developed through a participatory process. The key objective is the reduction of absolute poverty and it identifies the following fundamental action areas: education, health, agriculture and rural development, infrastructure, good governance, macro-economic and financial management.

Other areas of action identified in the PRSP/PARPA include employment and business development, social action, housing, fisheries, tourism, reduction of vulnerability to natural disasters.

The PRSP/PARPA gives the Government strategic directions. The World Bank's assistance to Mozambique shares these directions and tries to align World Bank lending accordingly—as laid out in the Bank's Country Assistance Strategy (CAS).

One of the key challenges in achieving sustainable improvements in poverty indicators derives from still rising numbers of HIV infections (about 13 percent of the adult population is HIV positive, a number that is rising exponentially).

Other key constraints to the implementation of the PRSP/PARPA reform programmes include increasing disparity between a booming mega projects sector and a small and medium enterprise sector which the business environment does not adequately support; corruption - particularly in the financial sector; and a weak banking sector.

In April 1998, Mozambique was the sixth country to be declared eligible to benefit from debt relief under the Heavily Indebted Poor Country (HIPC) Initiative, ensuring some US$1.4 billion (in nominal terms) in debt relief. Resources made available through debt relief provided under the HIPC Initiative are being allocated to key anti-poverty programmes, as outlined in the PRSP/PARPA.

In June 2002 the World Bank and IMF Boards approved a Country Assistance Strategy (CAS) for Mozambique. According to this work plan, World Bank lending is designed to increase economic opportunities, improve governance and empowerment, and improve human capabilities. A key objective of the CAS is to improve the focus, effectiveness and monitoring of poverty reduction efforts, especially by helping the Government to implement its poverty reduction strategy.

A new CAS has been recently finalised, with the objective of seeking to fully align Bank support with Mozambique's PRSP/PARPA. Consultations were held in Mozambique between January and August 2003 with presentation of the final strategy to the World Bank Board of Directors scheduled for the end of October 2003. This document has received board approval and should be made available on the World Bank website by the end of 2003, according to Mr. Gilberto de Barrios at the World Bank office in Mozambique.

Recently approved projects include (in US$million):

- HIV/AIDS Response Project ($55);
- Public Sector Reform Project ($25.6), and
- Energy Reform and Access Programmes Project ($42).
- Economic Management and Private Sector Adjustment Credit Project ($120);
- Higher Education Project ($60);
- Communication Sector Reform Project ($14.9);
- Roads and Bridges Management and Maintenance Project (US$ 162);
- Municipal Development Project ($33.6);
- Mineral Resources Management Capacity Building Project ($18).

The International Finance Corporation's (IFC's) committed portfolio in Mozambique as of June 2003 totals $154 million and consists of fourteen projects in agribusiness, the hotel industry, banking, and general manufacturing. Six of these projects are in the small- and medium-sized enterprise sector. IFC's main initiative has been the Mozal aluminium smelter including an SME linkage programme to expand local outsourcing.

The Consultative Group (CG) chaired by the World Bank is the main coordinating forum for donor activities in Mozambique. The World Bank works closely with other UN agencies and non-governmental organizations through its country office in Maputo.

A CG meeting was held in Paris on October 1-2, 2003, followed by a business forum to attract international investors. At the meeting there was agreement between the Mozambican government and its partners that the PARPA continues to reflect Mozambique's development priorities and that its implementation has led to visible results over the past few years.

In discussing Mozambique's progress to date, many partners saw an urgent need to improve efficiency and transparency in the legal and judicial system, both to provide businesses with expeditious dispute resolution and to help reduce the incidence of petty and large-scale corruption. While recognising that the government has made progress in addressing the troubles in the banking sector, they called for further action, including to expedite loan recov ery, strengthen financial sector supervision, and complete the divestiture of the government from the sector.

In addition, partners urged the government to continue to improve the investment climate, particularly for the small- and medium-sized enterprises that provide most of the jobs in Mozambique, *inter alia* by reducing administrative constraints, improving labor and land marketability, and expanding key cross-cutting infrastructure. The government committed itself to strengthening its efforts in these areas through the revised PARPA, to be completed before the parliamentary and presidential elections.

As mentioned, in conjunction with the CG meeting, the World Bank and the government of Mozambique jointly held a Mozambique Investment Forum. The objective of the Forum was to present Mozambique as an attractive investment destination; and to market some 10 investment opportunities so as to generate investors' interest in undertaking due diligence for possible investment in Mozambique. Mr. de Barrios at the World Bank office in Mozambique confirmed that through this forum, there will be 20 to 30 investors visiting Mozambique in March 2004 to take a closer look at the investment opportunities that were presented at the forum.

With regard to Foreign Investment Advisory Services (FIAS) – which is jointly funded by the World Bank and IMF - there have been five FIAS including a second Administrative Barrier report in 2001 (the first was in 1996).

UK's Department for International Development (DFID)

DFID's current programme in Mozambique as found in their Mozambique Country Strategy Paper comprises of the following initiatives:

- Customs Reform Project and Programme Aid
- Rural livelihoods in Zambezia province
- English Language Teaching at secondary school level

In the future, they envisage growing the programme to support the PRSP through the following main impact areas:

- Improved economic and financial management
- A more effective and efficient public service
- Sustainable rural livelihoods
- Improved quantity and quality of education and health for poor people

United States Agency for International Development (USAID)

USAID's current goals in Mozambique, as expressed in their Annual Report 2003 are:

- Increasing rural household incomes
- Strengthening the effectiveness of the governance partnership between government and civil society
- Increasing the use of basic health services, including HIV/AIDS behaviour change and awareness activities
- Improving the enabling environment for private sector-led growth

European Union (EU)

The EU programme in Mozambique was designed on the basis of the PRSP. The areas of focus are, as outlined in their Strategy Paper:

- Transport Infrastructure
- Food security and agriculture
- Macroeconomic support (this includes a reform programme for public finance management and related capacity-building such as trade policy reforms)

Other programmes include:

- Health and HIV/AIDS
- Good governance
- Support to non-state actors

Swedish International Development Agency (SIDA)

Three areas form the centrepiece of the development co-operation:

- democratisation and the democratic development of society
- sustainable economic growth
- social and human development

These cover areas such as:

Administration

A functioning government administration at both local and central levels is of vital importance in Mozambique's endeavours to reduce poverty, keep down corruption and promote the development of democracy. Major training initiatives for administrative staff have been carried out using Swedish support.

The finance and planning department and the civil service department have acquired, among other things, new knowledge of accounting systems, information technology and internal audit. The budgeting system has been developed and a government staff registra tion system and career and pay system have been introduced. Swedish support has also gone to the administrations efforts to decentralise its operations.

Targeted support to provinces

SDA also provides targeted support to different sections of society in the very poor province of Niassa in the northern part of the country. Various projects in the fields of agriculture, the private sector, administration, infrastructure and civil society receive support.

Commercial co-operation

SIDA is supporting the Confederation of Business Associations (CTA) employers' federation and a quality control body (INNOC). Another important initiative includes support for a credit system with microcredits for poor people who cannot get loans from conventional banks.

Independent organisations

Several Swedish organisations are operating in the country including Afrikagrupperna (the Africa Groups) and Diakonia.

PRIVATE SECTOR

The following are considered to be Mozambique's foremost business associations and chambers:

- Confederation of Business Associations & Chambers of Commerce
- Forum Empresarial para O Meio Ambiente
- Associaçao Comercial e Industrial de Sofala
- Associação Industrial de Moçambique
- Associação de Fruticultores do Sul de Moçambique
- Lion Zone, Inc

At a seminar entitled 'Implications and Benefits of Sustainable Public- Private Consultative Mechanisms', it was agreed by public sector, private sector, donors and academics that sustainable public- private consultative (PPC) mechanisms are critical to competitiveness and attracting foreign investment.

As Mozambique gradually transforms its economy from a public sector-driven economy to a private sector-led economy, the private sector has been the primary engine driving the consultative process. The public sector has demonstrated its willingness to engage in dia logue and has itself initiated consultative mechanisms and partnership with the private sector.

The government is gradually creating an environment in which the private sector can grow and become more competitive. However there are shortcomings in the consultative process.

The government has stated that it is committed to the privatization process. However, according to recent assessments and evaluations of privatised enterprises and the private sector, there are major constraints at the firm level to private sector development, the most noticeable of which are inefficient management and inadequate training at all levels.

The Government has openly lent its support to the CTA in the promotion of public-private sector consultations. But what is lacking is a structured dialogue process. The establishment of liaison offices or focal points in the line ministries could be an important step in achieving the structure that is lacking in the present mechanisms.

There is also a need for dialogue to have an impact on policy decisions - the framework of existing platforms do not have decision-making powers. Another shortcoming in relation to present mechanisms, is that they are focussed in the Maputo area. The assessment recommended that measures should also be taken to establish public-private consultative mechanisms in the provinces.

The recommendations also covered issues related to sub-sectoral entrepreneurs, civil society, bilateral and multilateral cooperating partners and the need to involve the private sector in the preparation of draft legislative proposals to be considered by parliament.

The general consensus is that even though dialogue between the government and the private sector in Mozambique is declared to be outstanding in comparison to other countries in the region – it's been an established forum where government and the private sector have been meeting every year for the last seven years – nothing concrete has come out of it. This is due to the fact the dialogue is not focussed in terms of prioritising issues and addressing them on a point-by-point basis. Instead, there is annual joint consultation with the private sector putting forward numerous and complex issues to government, but there is no drive to systematically and effectively deal with these issues. It is perceived as there being not enough political will to promote and enable a business environment that is more conducive to economic growth.

CONCLUSION

Mozambique has weathered many storms. It has moved from being a Portuguese to a one-party Marxist state that outlawed rival political activity, to a free market economy in the 1990's.

Within this turbulent political context, Mozambique was widely considered to be the poorest country in the world - in 1993 GDP/capita was US$90. The most recent statistics puts GDP/capita at around US$225, with donor aid/capita at US$52. In an effort to address both the human development and economic development issues that face Mozambique, the World Bank has taken the lead by chairing the Consultative Group (CG) - the main coordinating forum for donor activities in Mozambique.

Furthermore, the World Bank has endorsed Mozambique's poverty reduction agenda defined in the Poverty Reduction Strategy Paper (PRSP) 2001- 2005. There has been a recent PRSP Progress Report of February 2003 conducted by the World Bank. These feature Good Governance, Legality and Justice, and Macroeconomic and Financial Policies as Fundamental Areas of Action, and Employment and Business Development as an Other Area of Action.

There is a strong link established between poverty reduction and sound macroeconomic management, good governance, transparent rules of engagement within the business sector, strengthening the administrative capacity to ensure implementation and enforcement of the above, with stakeholder participation required to help inform these policies.

There have been five FIAS reports for Mozambique including a second Administrative Barrier report in 2001 (the first was in 1996).

Furthermore, in the recent CG meeting, donor partners urged the government to continue to improve the investment climate, particularly for the small- and medium-sized enterprises. This included looking at reducing administrative constraints, improving labor and land marketability, and expanding key crosscutting infrastructure. The government committed itself to strengthening its efforts in these areas through the revised PARPA, which will be completed before the parliamentary and presidential elections.

All of this indicates that there is a strong recognition of and commitment to the idea that the Mozambican economic environment should be as favourable to trade and investment as possible. However, although there is an attempt to address the key principles of RBP within the PRSP, by both government and donor agencies, there is no separate and distinct plan of action in this regard. RBP will benefit from creating a platform where it becomes an explicit focus of government, the private sector, donor agencies and other relevant stakeholders.

RESOURCE DOCUMENTS

1. Poverty Reduction Strategy Paper (PRSP) 2001- 2005
2. Poverty Reduction Strategy Progress Report of February 2003
3. DFID's Mozambique Country Strategy Paper
4. USAID's Annual Report 2003 on Mozambique
5. EU Strategy Paper
6. Implications and Benefits of Sustainable Public- Private Consultative Mechanisms

7

NAMIBIA

GLOSSARY

EPZ	Export Processing Zone
FIAS	Foreign Investment Advisory Service
GoN	Government of Namibia
MTI	Ministry of Trade and Industry
NCCI	Namibia Chamber of Commerce and Industry
NDP	National Development Plan
NEPRU	Namibian Economic Policy and Research Unit
NPC	National Planning Commission
NPRAP	National Poverty Reduction Action Programme
PEAC	Presidential Economic Advisory Committee
PSIP	Public Sector Investment Plan
SME	Small and Medium Enterprise
SWAPO	South West African People's Organisation

INTRODUCTION

Namibia achieved independence, after many years of South African occupation, in 1990. While it is legally a multi-party democracy, the country is *de facto* a single party dominant state, with the ruling South West African People's Organisation (SWAPO) having garnered 76% of the vote in the 1999 elections. A constitutional amendment has been made to allow SWAPO's President Nujoma to stand for a third term.

ECONOMIC SNAPSHOT

Namibia is relatively affluent in terms of per capita income ($1, 780 in 2002 according to the World Bank). However the country is heavily dependent on primary extraction, notably diamond mining and processing of minerals as well as processed fish for export. This has led to a dual economy, dominated by large resource-based corporates, a marked ‘‘missing middle’ and very little local resource beneficiation. The gap has not closed since independence despite some AGOA-driven foreign investment. The economy has been stagnant in recent years with a per capita growth rate of only about 1.6%.

Namibia faces extreme inequalities with the wealthiest 1 percent of the population earning more than the poorest 50 percent. Namibia has one of the most unequal personal income distributions in the world, reflected in a Gini-coefficient of 0.70.

The main structural change since independence in 1990 has been ‘increased state intervention in the economy’ (OECD [2002] *African Economic Outlook; Namibia*). Land reform and Black Economic Empowerment are, according to the OECD, high on the political agenda. The economy grew at an average of 3.5% from 1995 to 2001 but this was driven mostly by an expansion in government's contribution, whilst private investment has been declining. The north of the country is recovering in the wake of the achievement of political stability in Southern Angola.

Namibia has one of the lowest corporate tax structures in Southern Africa, in addition to other generous manufacturing incentives including: no capital gains tax; a non-resident shareholder's tax rate of 10%; no tax on dividends accruing to companies; a facility for building infrastructure to be written off at 20% in the first year and 4% per year for the next 20 years; tax free importation or acquisition of manufacturing machinery and equipment; and deductions for direct wages, training costs and exports.

INSTITUTIONS

Key Ministries

There does not appear to be any reference to RBP on the websites of the Ministries of Finance or Trade and Industry.

A unit of the Ministry of Trade and Industry (MTI), the **Namibia Investment Centre (NIC),** the country's official investment promotion agency, does have some RBP ideas in its mandate – although these are not explicitly spelled out as such. Created under the Foreign Investment Act of 1990, the NIC's role is 'to attract, encourage and facilitate both domestic and foreign investment'. The Act provides for 'liberal foreign investment conditions; equal treatment of foreign and local investors; openness of all sectors of the economy to foreign investment; no local participation requirement and full protection of investments'. In practice, interviewees suggest, the NIC is yet another example of this sort of institution smoothing the way for large foreign investors while indigenous firms are left to deal by themselves with all the hurdles.

The National Planning Commission (NPC)

The NPC is the body charged with the responsibility of planning national priorities and directing the course of national development, has just embarked on the Second National Development Plan (NDP2). This is a five year plan whose main objectives are: 'to reduce poverty; create employment; promote economic empowerment; revive and sustain economic growth; reduce inequalities in income distribution; reduce regional development inequalities; and promote gender equality and equity'.

The Presidential Economic Advisory Committee (PEAC)

The PEAC was established to advise on the long term development of Namibia's economy. Its role in and potential for advocating RBP are not known. NEPRU's opinion (via telephone interview with Director Dirk Hansohm) is that this body is effectively dormant.

POLICIES

In Namibia poverty reduction is regarded as the central focus in development policy, according to both Vision 2030 and the National Development Plans (NDPs). The link between RBP and poverty reduction does not appear to have been drawn. In general, in the opinion of Dr. Dirk Hansohm, Director of NEPRU (in a telephone interview), said he believed the Namibian government has no RBP model. Its approach to the business environment has been reactive and piece-meal. Although there are generous incentives provided to both foreign and indigenous companies (as illustrated in the Foreign Investment Act of 1990), the path to accessing these are fraught with difficulties like excessive red-tape and lack of capacity within government to administer and oversee the current regulations they have in place

4.1 Vision 2030

Vision 2030 is a primary statement of the ambition to alleviate poverty in Namibia. It states the desire to 'align Namibia's standard of living to that of developed countries in North America, Europe and Asia'. However RBP is not listed as one of the Vision's objectives.

The National Poverty Reduction Action Programme 2001-2005 (NPRAP)

Namibia's version of what is a PRSP in poorer countries. The executive summary refers to growth driven aspects of poverty reduction first – 'developing Namibia's transport and manufacturing hub within the region' (p. 4), promoting agriculture, tourism and SME development – and only after discussing these, to a 'safety net' (i.e. welfare).

The NPRAP is presented as a fundamental macro-policy document, designed to re-orientate the efforts of most ministries. It shapes implementation of the Second National Development Plan (NDP) and the Public Sector Investment Plan (PSIP). The earlier Poverty Reduction Strategy (PRS) has been collapsed into the NPRAP.

We could find no reference to RBP in the document. All actions proposed are things the government will do – and this intent is couched in outdated, statist terminology. There is for instance to be an extensive labour-intensive public works programme. It does however not (a step towards acceptance of RBP) that 'ultimately increases in investment and the size of the private sector, along with growth in employment will be key instruments in the reduction of poverty' [p. 22]

National Development Plans

NDP1 has as objectives: 1) reviving and sustaining economic growth; 2) employment generation; 3) reducing inequalities in income distribution; 4) poverty reduction. There is no evidence of RBP awareness in either NDP1 or (as far as can be established) NDP2.

RBP Initiatives To Date

The Export Processing Zone has RBP implications but researchers have been unable to find a public document that makes the link.

A 1997 small business development discussion document lists some RBP achievements at the time. These included amendments to the Close Corporations Act (1994), a 1993 moratorium on the 'highly restrictive' Road Transportation Act, The Trades and Occupational Licences Repeal Act of 1995 and a draft Sale of Liquor Act. A desktop scan does not explain why there was some sort of RBP content to policy in the early-mid 1990s, not why this appears to have fallen away in more recent years. What RBP initiatives did happen appear to have coincided with the peak involvement of FIAS.

Small Business Development

The 1997 Small Business development discussion document advocates many aspects of RBP. Among other things it suggests that the primary role of government is to be a 'catalyst and enabler' (p. ix and p.3) and that 'government intervention will be in the form of improving conditions for business to flourish rather than in direct intervention'. (p. 4). However the policy does not appear to have been implemented.

Competition Policy

The GoN intends introducing a competition policy based on the 1998 South African legislation. We have been unable to find RBP references in this regard.

INTERNATIONAL DONORS

In line with the priorities of the Government of Namibia (GoN), the focus of most donor agencies tends to be on 'human development issues', rather than the business environment.

FIAS

In 1992 – 1998 FIAS produced reports on Namibia regarding Investment Policy, Incentives (investment incentives framework and implementing and eliminating certain incentives), and Diagnostic (a diagnostic view of the investment climate). In 1996 FIAS conducted a report on the Administrative Barriers, which was a detailed review of specific barriers to private investment.

PRIVATE SECTOR CONSULTATION

The Namibia Chamber of Commerce and Industry is strong and well established. It is one of the better run and managed Chambers in Southern Africa and is a key component of the overall Namibian drive to attract trade and investment. It also works very closely with the Walvis Bay Corridor Group, which aims to promote trade from the hinterland through the port of Walvis Bay.

In discussion with NEPRU, the opinion was advanced that despite the existence of a strong organised private sector, interaction between government and the private sector is almost entirely informal. There seems to be a lack of adequate administrative capacity and skills within government in terms of implementing current economic policies. Thus issues around developing a more responsive policy framework in consultation with the private sector are not dealt with in an institutionalised manner.

CONCLUSION

The conclusions here may be more a reflection of the limitations of the desktop methodology than reality on the ground. However the fact is that all references to RBP found in Namibian public documents are now at least 5 years old and often refer to policies implemented some time before that. More recent documents are almost entirely bereft of RBP references.

This may reflect shifting political concerns in Namibia. The GoN has recently shown signs of unease at the pace of land reform and the (racial) distribution of wealth generally. Corresponding to this shift has been an increase in government intervention in the economy. RBP appears to have been pushed aside by other considerations.

RESOURCE DOCUMENTS

1. European Commission [2001] Namibia-EC Country Strategy Paper and Indicative Programme for the Period 2002-2007
2. NEPRU [2003] *Competition Policy for Namibia: Promoting Fair Competition and Economic Development*, NEPRU Policy Brief, Issue No. 4 February
3. NEPRU/NCCI [2002] Namibia Business Climate Survey 2002 Vol. 2
4. OECD [2002] *African Economic Outlook: Namibia*
5. Republic of Namibia [1997] *Namibia: Policy and Programme on Small Business Development*, January
6. USAID [2003A] USAID/Namibia *Country Strategic Plan 2004 – 2010*
7. USAID [2003B] USAID/Namibia Annual Report FY 2003

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SWAZILAND

GLOSSARY

AGOA	Africa Growth and Opportunities Act
ASBC	Association of the Swaziland Business Community
CATRI	Complementary Actions for Trade and Regional Integration
EDF	European Development Framework
ERA	Economic Reform Agenda
FSE	Federation of Swazi Employers
GoS	Government of Swaziland
FDI	Foreign Direct Investment
IBA	International Bar Association
IFS	Investor Facilitation and Aftercare Services
MEE	Ministry of Enterprise and Employment
MEPD	Ministry for Economic Planning and Development
MFAT	Ministry of Foreign Affairs and Trade
NDS	National Development Strategy
PSMP	Public Sector Management Programme
PSSP	Private Sector Support Programme
SACU	Southern African Customs Union
SCCI	Swaziland Chamber of Commerce and Industry
SEDCO	Swaziland Enterprise Development Corporation
SIPA	Swaziland Investment Promotion Authority
VAT	Value Added Tax

INTRODUCTION

For the first 15 years after achieving independence from Britain in 1968, Swaziland was ruled by King Sobhuza II, as a constitutional monarchy. Sobhuza's death led to a series of power struggles within the royal household, culminating in the coronation of King Mswati III in 1986. Mswati moved swiftly to disband advisory councils and consolidate the near-absolute power enjoyed by Sobhuza. The result has been an increase in agitation from pro-democracy groups in the last five years.

The most pressing issue facing the Kingdom at present is the breach between the rule of law and the monarchy. The crisis began in 2000 when King Mswati ordered the eviction of 200 people from their ancestral land after they refused to accept the king's brother as chief. The Government of Swaziland (GoS) ignored all subsequent court rulings overturning the evictions. In Swaziland's Chief Justice resigned on the grounds that outright defiance of court orders by Government officials had created an unmanageable situation. Parliament wields no real powers.

International Bar Association (IBA) programme lawyer, Dr Phillip Tahmindjis, said the Swaziland legal system was slowly grinding to a halt. 'The government is not coming to the court with clean hands. The crux of the problems … is a lack of clarity about the interaction of the Swaziland legal system, customary law, common law and human rights norms.' Ray-chelle Omamo, former president of Kenya's Law Society and a member of the IBA, said, 'the mission found that there is a complete lack of separation of powers and respect for the judiciary by the executive. There seem to be no clear boundaries between the Roman Dutch Common Law and the customary law' (International Bar Association: Legal Brief Africa, March 2003).

The Kingdom is now in the process of drafting a new Constitution, a move that was agreed by the King following mounting international pressure. The first draft has been approved and the King has said he will approve the Constitution because it represents 'the will of the people'. Pro-democracy advocates have condemned the draft as a public relations gimmick which circumvents the need for a constitutional monarchy and a party political system (All Africa report [2003], September 8).

ECONOMIC SNAPSHOT

The Swaziland economy is closely tied into the economy of South Africa by physical proximity, membership in the South African Customs Union (SACU), from which Swaziland derives roughly half of its government revenues, and the Common Monetary Area (CMA). 80% of Swaziland's imports and 60% of its exports are with South Africa.

The modern, capital-intensive sector in Swaziland is largely foreign controlled. Manufacturing is dominated by export-oriented agro-processing (soft drink concentrate, sugar and wood pulp) and, in recent years, the aggressive development of the textile and clothing sector under AGOA preferences. Mining has declined in importance in recent years as Swaziland's iron ore deposits were depleted by 1978 and health concerns have cut world demand for asbestos, Swaziland's only other mineral deposit.

In recent years, economic growth has slowed to below the estimated population growth rate of 2.9 percent. According to the Central Bank (Annual Report 2001), foreign investment had also declined and higher government spending has put pressure on the budget.

The Central Bank of Swaziland says the challenge to create new jobs and maintain existing jobs is especially important given the prevalent closure companies. The report argues that government has to improve the business environment. But this does not necessarily mean RBP. The Central Bank places emphasis on upgrading Swaziland's investment incentives so that they 'compare to those offered by neighbouring countries'. It also suggests that the GoS's efforts to do away with poverty are welcomed and should continue.

There is considerable activity in terms of fiscal reform, motivated, in part, by declining SACU revenues. There is a move to introduce Value Added Tax (VAT) in the near future, at the recommendation of donor agencies. There is no single revenue authority and apparently little likelihood of one being introduced.

Swaziland's current Companies Act dates from 1912 and is based on British legislation. New legislation has been drafted; however Royal Assent has not been forthcoming. The draft act went to cabinet three years ago and has never been promulgated. Observers note that this is one traditional method of 'smothering' legislation in Swaziland. The lack of separation of powers within government is further emphasised by a recent attempt to set up a small claims court which was frustrated by a stand-off between the monarchy and legislature.

GOVERNMENT INSTITUTIONS

The Ministry of Economic Planning & Development (MEPD)

The MEPD's declared aim to promote sound macro-economic management that provides an enabling environment for sustainable economic growth and efficient and cost-effective delivery of services .

The Ministry is responsible for the *National Development Strategy* (NDS). The process of compiling the NDS was completed in September 1997. Supposedly in consultation with all stakeholders, key implementation activities have been identified. These do not appear to have any specific RBP references. Related to this is *Vision 2022* which was launched by His Majesty the King, alongside Key Macro and Sectoral Strategies, in August 1999.

The *Millenium Project* was conceived in 1999 in order to transform the NDS and *Vision 2022* into reality. The project entails the rehabilitation of physical infrastructure to attract investors and tourists to Swaziland.

As part of the proposal on the institutional framework submitted to Cabinet for approval, the Ministry has proposed that a technical Unit to coordinate the activities of the operationalisation of the NDS be established within the Ministry of Economic Planning & Development.

As part of the implementation of the NDS, the government received assistance from the donor community to address the problem of poverty in the country. The Ministry of Economic Planning was given the responsibility to co-ordinate the development of a poverty reduction strategy and the first document entitled ‘Reducing Poverty through Shared Growth’ was produced with the assistance of the World Bank. In order to facilitate the development of the Poverty Reduction Strategy, the Ministry established a task force to coordinate and monitor the formulation of the strategy. During the financial year 2002/2003 the task force undertook further consultations with the private sector, youth, disabled, non-governmental organizations and other stakeholders in order to obtain comprehensive views on the poverty reduction strategy. These, together with data already collated, will form the basis of the strategy and action plan. In the interim, the government budgeting system is supporting the implementation of pro-poor projects and projects which address the unemployment problem and the HIV/AIDS pandemic.

The Ministry of Enterprise & Employment (MEE)

This ministry is formally responsible for the overall socio-economic development of Swaziland and the improvement of the standard of living and quality of life of the Swazi people. According to the Ministry this is to be achieved by creating a conducive climate for local and foreign investment, development of industry and trade; promoting harmonious industrial relations, monitoring the efficient utilisation of human resources and ensuring that Swaziland remains an effective global economic player.

This Ministry also has an SME Unit, headed up by Mr. Bertram Stewart. This government agency’s responsibility is to assist in creating a climate more conducive to SME development in Swaziland. Though this unit has consulted with the private sector, nothing concrete has come out of this process to date. Mr Stewart is said to be a key advocate of RBP within the GoS.

The Ministry of Foreign Affairs & Trade (MFAT)

The MFAT is responsible for the establishment and maintenance of Swaziland’s international relations and trade and cooperation between the Kingdom and the international communities. Within the Ministry, the Directorate of Trade is responsible for the formulation of international trade policies and regulations having trade and industrial implications.

The Swaziland Investment Promotion Authority (SIPA)

SIPA was established by an act of Parliament in 1998. Its operations are spread across three areas: Foreign Direct Investment (FDI), Small and Medium Enterprises (SMEs) and Investor Facilitation and Aftercare Services (IFS). This is potentially an important RBP institution as its objective include 'advising the Minister of Enterprises and Employment on investment strategies, proposals and suitable incentives'.

The Central Bank of Swaziland

The Central Bank's formal role is to 'contribute to Swaziland's national economic development through the promotion of monetary stability and by fostering an environment which ensures a stable and a sound financial system'. In an endeavour to improve its supervisory role, the Central Bank has effected some amendments to the Central Bank Order and the Financial Institutions (Consolidation) Order, 1975 and these are still with the Ministry of Finance and are awaiting promulgation. The delay in the promulgation of the amendments has inhibited the Central Bank from exercising improved supervision of the banking sector as banks enter into sophisticated products.

INTERNATIONAL DONORS

Swaziland's political problems have led to a large degree of donor fatigue, especially outside of the emergency relief sector. As such, meaningful programmes are few and far between. There are a number of projects, notably EU ones that relate to RBP, and these are outlined below. The IMF and World Bank both have very low profiles in Swaziland, largely as a result of the political impasse in the country, and have no programmes dealing with RBP. The UNDP has a limited amount of intervention.

European Union

The EU is by far the largest current donor to the government of Swaziland, and maintains a number of ongoing programmes in the country. There are several programmes relevant to RBP. Under the 9th European Development Framework (EDF), the EU has three projects that seek to build RBP capacity in Swaziland. These are:

Complementary Actions for Trade & Regional Integration (CATRI)

RBP relevant areas to be considered for assistance include: 'Private sector friendly reforms' re. market supervision, trade, investment, competition policies and consumer protection (including possibly the establishment of a competition authority);

Complementary Actions for Institutional Capacity Building

This programme includes possible support to reinforce the capacities of non-state actors regarding organizational capacity and representation. It especially emphasises apex bodies or federations of non-state actors, and the establishment and operation of appropriate consultation mechanisms both among non-state actors and with the government of Swaziland.

Private Sector Support Project

This project included components in support of small and medium enterprise development, tourism sector development and extension of the EU support for investment promotion.

The three components referred to immediately above are closely inter-related and the combining of these activities under one programme should ensure that there is close collaboration that will maximise the impact. A technical assistant team mobilised in November 2001. There appear to have been problems with this project and the status is unclear.

Strengthening Capacity in Trade Analysis & Negotiations

The project provides the Ministry of Foreign Affairs & Trade long-term and short-term experts for capacity building in the management of international trade relations and trade promotion over a period of 3 years. In addition, funds are allocated for training and seminars on trade issues.

The United Nations

The UN has a limited presence in Swaziland. The UNDP has a programme called the Democratic Governance Programme. There are two components of this that are relevant to RBP: Strengthening Capacity for Decentralised Governance focuses on capacity issues in local government and decentralized institutions. Strengthening Capacity for Development Management is designed to boost the policy making capacity of the public sector.

The International Monetary Fund

The IMF has a limited role in Swaziland, although it recently conducted a Consultative Mission. This report (October 2003) looks at several issues that are of importance to Swaziland, notably the impact of HIV/AIDS on the country, the current food crisis, and issues of governance and transparency.

The World Bank

The Multilateral Investment Guarantee Agency (MIGA) – the World Bank Group affiliate that provides investment marketing services to developing member countries – has participated in a number of regional strategy workshops to promote foreign investment in tourism.

THE PRIVATE SECTOR

Recent Developments

The Swaziland Chamber of Commerce and Industry (SCCI) and the Federation of Swazi Employers (FSE) have recently merged to form a united organisation that is mandated to represent the private sector in the Kingdom. They claim to liaise closely with government departments on issues that affect businesses in Swaziland, especially the MFAIT and SIPA.

The CEO of SCCI is Ms. Treasure Maphanga who has been in the position since mid-2003. She says RBP issues form part of the mandate of the organisation, which planned to set up an RBP portfolio early in 2004. She believes that two main issues arising are a need for information on the current status of RBP in Swaziland; and to have a joint consultative forum established between government and private sector to address the issue rather than deal with the matter on an ad-hoc basis.

Swaziland Chamber of Commerce & Industry (SCCI)

The SCCI has a membership of over 300 enterprises, of varying sizes. The Chamber is consulted on a variety of issues by Government and claims to be recognised as the leading business organisation within Swaziland. It is seeking to define and concentrate on our core services, including:

- Dialogue with the government on the likely impact on the business sector of existing and envisaged government policies;
- Representation to the government and the authorities on problems faced by business with a view to seeking redress for grievances;

Both these thrusts have potential RBP implications.

The Federation of Swazi Employers

The FSE was formed in 1964, shortly before independence. At the time an authoritative, unified, private sector body was seen as necessary to work closely with the new Government to influence the economic development policies of the country. The FSE has over the years evolved and grown and claims that today it still fulfils its original objectives while having broadened its scope considerably. Its activities appear to revolve mostly around dispute resolution, industrial relations and legal advice.

The FSE represents members in Court where there is a need. The FSE works with government in policy formulation, and consults on legislation relevant to its membership.

Swaziland Industrial Development Company (SIDC)

The Swaziland Industrial Development Company (SIDC) was established in October 1987 as a joint venture between the Government and major international finance institutions to supply local and international funds to finance private business projects.

Association of the Swazi Business Community (ASBC)

The Association was formed after various businesspeople from the Swazi community had met and discussed in depth the need for Swazi's to have an organisation to spearhead the endeavour for Swazi's 'to be fully participant in the economy of Swaziland'. This was the mandate given to the National Executive Council in May 1999 by the General Meeting at which over 1,000 business people attended. The Association of the Swaziland Business Community (ASBC) was formed and is spearheaded by Mr. Tums du Pont. It effectively provides a forum for smaller indigenous businesses. The organisation feels the gap between big business and smaller businesses in Swaziland is widening. It expressed concern over the fact that though there has been dialogue between government (the SME Unit) and the private sector to address issues that affect SME development in Swaziland – as well as the joint development of working papers and policies – nothing substantial and effective has come out of the process. SIPA is criticized for its focus on AGOA-driven foreign investment in the textile sector. The ASBC believes there has been no move to create and facilitate joint ventures between foreign companies and indigenous businesses. In Parliament in 2002 the Minister for Enterprise and Employment did however state that there is a policy of local (indigenous) preference in outsourcing. The ACBC's main interest will be in making this theoretical policy real.

Small Enterprise Development Company

The Small Enterprise Development Company (SEDCO) addresses the industrial needs of indigenous small businesses in Swaziland. Established in 1970, SEDCO claims to 'provide an enabling environment for SMEs and promotes managerial skills through entrepreneurial business training throughout the country as well as supplying marketing related information to all small and medium enterprises clientele groups'. These activities appear to be entirely supply-driven and thus if anything anti-RBP.

OTHER RELEVANT PLAYERS

The ***Enterprise Trust Fund*** caters for the development and sustenance of SMEs in Swaziland through the provision of financial and technical assistance as well as training to businesses at grassroots level. Established in 1995 as a service organisation by His Majesty King Mswati III, the vision for the Enterprise Trust was to end persistent rural poverty and gender marginalisation through job creation, support for rural businesses and support for projects operated by women entrepreneurs.

The Swaziland Federation of Trade Unions (SFTU) is the largest national trade union in the country, organizing workers in both the public and private sectors. Government discourages trade union development and remains unresponsive to the demands of labour. Government crackdowns on labour demonstrations and the harassment and intimidation of SFTU leaders are regular occurrences.

CONCLUSION

RBP efforts in Swaziland are at best haphazard and uncoordinated. There is simply no coherent overall RBP thrust: The ERA, NDS (1997), Vision 2022 and the Key Macro and Sectoral Strategies of 1999, present a confused picture. The present constitutional turmoil has put policy development, let alone regulatory issues, on a back burner. The IMF has noted: 'an unresolved crisis in the judicial system, uncertainties over the new constitution and concerns about governance had fuelled social tensions and weakened donor sentiment ' (IRIN Report [2003a] 'IMF calls for improvement in governance', 5 November). With such a situation, the donor community cannot be relied on to take the process of RBP forward.

Another IRIN Report [2003b] 'Power of chiefs begins to be questioned', 7 November) observes that ongoing chieftancy disputes have stalled developmental projects and drawn the intervention of King Mswati's palace officials. The report goes on to explain that there are over 300 chiefs in Swaziland and that competing claims as to who a rightful chief is, means that some areas have not had a chief for up to two decades. Because developmental initiatives and grants from foreign donor agencies cannot proceed without the approval of a chief, some areas are lagging behind in infrastructure, health and other improvements. This is not an environment favourable to trade and investment.

The lack of direction in Swaziland's economic development strategy is further reflected by the perceived inadequacy of dialogue between the Ministry of Enterprise and Employment and the private sector. Business feels that SIPA is almost exclusively focused on foreign investment under AGOA. There is very little confidence in government's commitment and ability promote an enabling business environment for indigenous businesses.

Business has also seen palace intervention in industrial matters. Workers unhappy with Industrial Court rulings have appealed to the palace and there have been cases where royal officials overturned court verdicts. Businessmen complain that they do not get to tell their side of the story, and traditional authorities are prejudiced toward Swazi complainants. (All Africa [2003c] 'Investors Turn Away Over 'Rule of Law' Controversy', 27 August). Until there is settlement on a new constitution and a return to the rule of law, RBP will remain low on the agenda.

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9

TANZANIA

GLOSSARY

BEST	Business Environment Strengthening in Tanzania
FDI	Foreign Direct Investment
FIAS	Foreign Investment Advisory Service
GoT	Government of Tanzania
HIPC	Highly Indebted Poor Country
IMF	International Monetary Fund
NBC	National Business Council
PRGF	Poverty Reduction and Growth Facility
PSF	Private Sector Foundation
RIA	Regulatory Impact Assessment
TDV 2025	Tanzania Development Vision 2005
TIC	Tanzania Investment Centre
TNBC	Tanzania National Business Council
TRA	Tanzania Revenue Authority
UNCTAD	United Nations Conference on Trade and Development

INTRODUCTION

Tanzania began reforming a previously centrally-planned economy in the late 1980s but 'only after the elections of 1995 (when the present incumbent, President Benjamin William Mkapa was elected) did 'a genuine will to undertake economic reforms emerge' (UNCTAD [2001] Investor Policy Review: The United Republic Of Tanzania, United Nations 5 December 2001). Thus the search for RBP has to be seen in the context of a country still in the process of establishing many of the fundamentals of a market based economic system. UNCTAD suggests that 'only in the second half of the 1990s (did) market-oriented reforms reach critical mass (UNCTAD, ibid, p. 28). The result is a patchwork of regulations and institutional arrangements, some (the more recent ones) more aligned with RBP than others. For example, UNCTAD concludes that the Tanzania's Investment Centre (TIC), established in 1997, has 'an enviable reputation … (in) contrast with more negative and sometimes rather slovenly attitudes … encountered in a direct approach to the ministries involved in a particular project' (UNCTAD, ibid, p. 50). However awareness of RBP appears to be accelerating, as evidenced by the many 2003 articles and speeches cited below.

MACRO-ECONOMIC STABILITY

Tanzania's economic reforms have been accompanied by spectacular economic growth (see table below) with GNI/capita increasing from US$230 to US$280 from 1998 to 2002.

Table 9.1: Economic growth, selected years

	1981	1991	1998	2000	2001	2002
GDP (US$bn)	5.5	5.0	7.5	9.1	9.3	9.6

Sources: World Bank, United Nations

In the process of reform, Tanzania has closely followed the prescriptions of the international donor organisations. Tanzania began privatising state owned enterprises in 1994, liberalised the banking sector from the early 1990s (prior to that there had been an absolute prohibition on foreign-owned banks), prepared an 'Investor Roadmap' in 1996, established an Investment Act (1997) and began consultation with the private sector, initially through (it is assumed) state sponsored mechanisms like the Private Sector Foundation [PSF] (1999) and the Tanzania National Business Council [TNBC]. More recently, consultation has been through mechanisms like the Local Investors Round Table and Interactive meetings with the CEOs.

DOMESTIC INITIATIVES

Tanzania Development Vision 2025

The main locally-originated economic development initiatives fall under the umbrella of The Tanzania Development Vision 2025, a broad strategy to transform Tanzania into a semi-industrialised nation by the year 2025. The Vision, formulated in 1995-98 dovetails with the Agricultural Sector Development Strategy [ASDS] (Aug 2001) and the Tanzania Assistance Strategy [TAS] (1999-2000). The latter is a framework for 'periodic consultations among the development partners' (PRSP, p. 3) – in other words the Government of Tanzania and 'its international partners'. According to UNCTAD it has more-or-less been 'collapsed into' the PRSP; but another observer suggests it has been 'sidelined' (Holtom, D. [2002] *Tanzania's PRSP: 'Everyone Wants a Success Story*' University of Wales, Swansea, 28 Oct. p.44)

The Tanzania Development Vision (TDV) 2025 (United Republic of Tanzania, President's Office/Planning Commission [1999] The Tanzania Vision 2025, Dar-es-Salaam) is a broad plan intended to give coherence to the new (liberal) development strategy that had been developing since mid-1986. It has little direct RBP reference but a couple of points could be developed in this direction. The foreword by President Benjamin Mkapa identifies the need for an 'enabling environment' (p.2) – although he does seem to ascribe more to the term than straightforward RBP. The introduction by Minister Nassoro Wamchilowa Malocho, vice chairman of the Planning Commission, stresses 'the importance of undertaking reviews and reforms of existing laws and structures' (p.4). The closest statement to a full RBP reference appears on p.15. – 'The role of the state must be to ensure that a legal and regulatory framework is in place and functioning'. Nevertheless TDV 2025 is an important document in that it spells out the intention to move beyond the socialism of the Arusha Declaration era and to embrace private sector led development.

The Poverty Reduction Strategy Paper

The PRSP was adopted in 2000 (United Republic of Tanzania [2000] *Poverty Reduction Strategy Paper*, Dar es Salaam, October). RBP references are limited in the document itself although some of the terminology is present. Organised business was only consulted late in the process (at a national workshop to review the draft PRSP) and, although the paper does say that the strategy 'is an integral part of on-going macroeconomic and structural reforms' (PRSP, ibid, p. 14), the emphasis is largely on supply-side measures (e.g. credit support for agriculture, training, abolition of primary school fees, etc.). The paper notes, as a complementary observation, made at the national workshop, that there is a need to 'intensify efforts aimed at developing an enabling environment for the private sector' (PRSP, p. 13).

Despite its generally welfarist orientation, there is evidence of domestic opposition to the economically liberal aspects of the PRSP (see: Mbogora, A. [2003] 'Anti-poverty plan a foreign vision', *Sowetan*, Mon Sept 8; and afrol [2003] 'Tanzania enhances structural reforms', 29.07.2003). The second of these articles – a response to the IMF's 2003 Article IV Consultation Report – says that a 'key element' is 'removing impediments to growth … including measures to improve the efficiency of the financial sector and promote private sector development – i.e. more privatisations' (p.2). The last 2 words clearly indicate a lack of understanding of RBP on the part of the writer.

The Government of Tanzania produced a progress report on the PRSP in 2001, in which there is considerable reference to RBP (United Republic of Tanzania, [2001], *Poverty Reduction Strategy Paper: Progress Report 2000/01*, Dar es Salaam, 14 August). Under the heading 'Principle interventions for 2000/01', the *Progress Report* names: 'creating an enabling environment for private investment' (7th of 18 listed interventions); 'measures directed at promoting private sector-led growth' (8th); 'Promotion of an enabling environment for private investment, including … new land legislation, restructuring the TIC, establishing a unified tax appeal mechanism and strengthening the Commercial Court' (all p.4). These are apparently all reforms that have been carried out (see also matrix of outcomes on p.7). The list is repeated on p. 12 among 'Structural reforms' said to have been implemented in 2000/01.

Among the cross-cutting issues listed (pp. 33-39), there is no mention of RBP. Limiting corruption (p.34) is not related to regulatory issues; the aim of increasing employment (pp. 37-38) is not related to either regulation or SMEs; and the section on SMEs (p.39) is all about support mechanisms, not RBP.

A further multi-lateral donor initiative (part of HIPC debt-forgiveness and 'related to the PRSP' is the IMF's Poverty Reduction and Growth Facility (PRGF). This is essentially a borrowing facility – the IMF says 'PRGF supported programmes are based on country owned PRSPs' (IMF [2002] 'IMF Completes Fifth Review Under Tanzania's PRGF Arrangement and Approves US$27 Million Disbursement', IMF New Brief No. 02/115, November 19). But conditionalities imposed by the PRGF on the Government of Tanzania caused tensions, especially during the PRSP process (see Holtom, R. ibid, p.16). These conditionalities do however appear to include some RBP elements. The 2002 IMF press release refers to (then) acting IMF Chairman, Shigemitsu Sugisaki listing the following elements of RBP as part of the GoT's programme for 2002/3: 'Improving tax policy and administration, promoting private investment … simplification and harmonization of local government taxation … removal of impediments to bank lending (IMF [2002] ibid, p.2)

Recent Budget Statements

In 2003, at least two cabinet ministers made extensive references to RBP in their budget speeches. Basil Mramba, the Minister for Finance, announced that a priority in tax reform was 'eliminating nuisance taxes' and went on to say that his ministry is 'implementing a strategy for harmonization and rationalization of local government taxes and levies so as to create a conducive environment … for people to engage in productive activities' (Mramba, B. [2003] p.4; also p.6 on procurement regulations; pp. 5-6 on amendments to VAT and local government taxes). Dr Abdallah Omari Kigoda, Minister of State for Planning and Privatisation, a unit based in the President's Office spoke about the need to improve the 'investment climate' as well as 'regulations and procedures that are pro- indigenous Tanzanians' (Kigoda, A.O. [2003] p.2) and referred to the need for an 'appropriate environment' to facilitate economic growth generally (p. 3), agricultural development (p.8) and SME development (p.9). It should be pointed out that while all of this is encouraging from an RBP perspective, 'pro- indigenous' policies may well complicate the investment environment, perhaps through introducing greater regulatory complexity. This is certainly an issue that should be watched in Tanzania.

RED TAPE/ADMINISTRATIVE BARRIERS REPORTS

The most recent FIAS report for Tanzania was *Competition Policy* done in 2002. This 'assessed the relationship between competition policy and FDI to improve the existing institutional framework' (www.fias.net). Three have been 3 other FIAS reports for the Government of Tanzania' (1999) *Investment Policy* (for Zanzibar only); (1999) *Institutions/Promotions Strategy* (this appears to revolve around the TIC); (1993) *Investment Policy: Swaps/Forex*. As far as this study can establish, there has never been an Administrative Barrier study by FIAS (i.e. a red tape study) for mainland Tanzania.

SMALL BUSINESS DEVELOPMENT

Tanzania's draft SME policy has a great deal to say about RBP (United Republic of Tanzania [2002] *Draft Small and Medium Enterprise Development Policy* Dar-es-Salaam, January). Significantly, the draft Foreword, by Hon. Juma Ngasongwa, Minister for Trade and Industry refers to an 'unfavourable legal and regulatory framework' as the first constraint on small business development (p. iii).

The document announces upfront that 'Tanzania is committed to a free market economy whereby the private sector will take the lead in creating incomes, employment and growth' (p.1). Later on the same page, the first major problem after 'culture' is given as 'complex, bureaucratic and costly legal, regulatory and administrative environment'. The point is reiterated in more detail on p.8. Also: 'The high cost of compliance to regulations may discourage potential entrepreneurs' (p.1). The first strategy for SME development is 'the creation of an enabling business environment' (p.2)[10]. 'Simplification and rationalization of procedures' is listed as one of the policies 'guiding principles' (p.15). A detailed strategy

[10] The other two strategies are 'developing financial and non-financial services strategies' and 'putting in place a supportive institutional infrastructure'.

for creating and enabling legal and regulatory framework is spelled out in 8 points on p. 16.

The draft policy spells out a number of 'Category A' actions – to be implemented in the first 3-5 years. The first of these is aimed at creating an 'enabling legal, regulatory and administrative environment' and includes simplifying entry and tax compliance conditions as well as reviewing Tanzania's Land Act (p.30).

There have been some significant statements on regulation and SMEs made by actors in the policy network, within the last year. Some of these came at the 7th International Conference on African Entrepreneurship and Small Business Development, held in September 2003 and organized by the faculty of Management and Commerce at the University of Dar es Salaam. Tanzania Revenue Authority commissioner-general Harry Kitilya presented a paper entitled 'Accounting and Taxation Issues in SMEs in Tanzania' in September 2003, criticising the 'multiplicity of taxes' and the 'cumbersome, contradictory and inconvenient tax system' (Mwakalebela, L. (2003a) 'Taxation of SMEs Cumbersome Says Revenue Authority' *Business Times*, Dar es Salaam, Sept 26). An opinion piece in the Tanzanian press, by Robert Mihayo, suggests that hurdles faced by SMEs include 'a legal and regulatory environment which is cumbersome, bureaucratic, costly and centralized' (Mihayo, R. [2003]). Dr. Donath Olomi of the University of Dar es Salaam criticized 'regulatory regimes that are difficult and costly to comply with' as one of the constraints facing SMEs in Tanzania (Mwakalebela, L. (2003b) 'Underdeveloped Enterprises, Culture, Regulatory Regimes Constrain SMEs' *Business Times*, Dar es Salaam, Sept 19). But commitment to RBP may not be entirely focuses even within the Business School. This last article also quotes the head of faculty, Dr. Erasmus Kaijage, who argues that 'Africa's unemployment … and limited competitiveness (is) associated mainly with low levels of entrepreneurship development' (Mwakalebela, L. (2003b) ibid), a view which seems to point towards a supply side diagnosis.

Perhaps the most significant statement of RBP intent regarding small business development was the statement in September 2003, by President Benjamin Mkapa, that the government 'has adopted the (Hernando) de Soto model' in order to bring the informal sector into the mainstream economy. Mkapa has been quoted as saying: 'We should … review legislation, regulations and procedures … deemed to be a stumbling block for those in the informal sector to enter the mainstream economy' (see Daily News, Tanzania (2003) 'Informal sector gets new push', October 2003)

CONSULTATION WITH THE PRIVATE SECTOR

The World Bank has provided credit to Tanzania to support the creation of 'a government-private sector dialogue mechanism'. The key objective is 'to remove … regulatory and business environment bottlenecks which inhibit the expansion of private and foreign direct investment' (World Bank [1999] 'Tanzania Boosts Private Sector', Press Release No. 2000/147AFR, Washington, December 15).

Outcomes of this initiative include a National Business Council (NBC), established in April 2002 and a series of Investors Round Table meetings, at which the private sector meets the government. One series of Round Table meetings focuses on indigenous firms and another on foreign investors. President Mkapa attends the latter. The first Local Investors Round Table meeting recommended much that was RBP in orientation. Short term recommendations (within one year) included various regulatory improvements to the tax system, including 'streamline(ing) tax administration, reduce(ing) and rationalise(ing) the number of taxes' and suggested bureaucracy and red tape was a problem (although the agreed recommendations involved education and information technology, not RBP) (1^{ST} Local Investors Round Table: 20^{th} June 2002. Summary of Recommendations). Medium term recommendations (within 2 years) in the same document include implementation of the Business Environment Strengthening in Tanzania (BEST) initiative (see below).

As a result of the various meetings between government and private sector, a matrix of actions has been drawn up by government (Matrix of Actions [2002]). Discussions between the government and the private sector: Follow Up Actions on Key Issues and Problems'). Many of the topics identified lend themselves to actions that should ideally be informed by RPB (problems importing skilled labour, rigid labour laws, an 'overly complex central government tax system and 'investor friendly' system of tax administration' (p.3), legal delays in commercial cases and, under the heading: 'Problems related to Licencing of Business Activities', 'too many licences and tax collecting agencies' (p.5).

However while RBP is not entirely absent from the detailed proposals in the matrix ('The Way Forward'), from this perspective, the document makes for disappointing reading . There is a degree of complacency about reforms already implemented: e.g. 'substantial progress has been made to reduce nuisance taxes' (p.3), 'establishment of the commercial courts has helped reduce delays' (p.4) and 'substantial work has been made to reduce the number of licences impacting on individual businesses' (p.5). The result is that the actions contemplated appear limited and lacking awareness of real RBP issues. Regarding business licences, the plans is for a 'publicity campaign' (to publicise reforms already made) and for the accelerated implementation of One Stop Shop licencing centres (p.5). This despite the fact that business entry in Tanzania is still extremely problematic.[11]

Regarding business entry, it should be noted that the commissioner of the Tanzania Revenue Authority, Harry Kitilya, recently suggested the adoption of a new business licencing system. In a paper presented at the 7^{th} International Conference on African Entrepreneurship

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11 According to the World Bank's Doing Business index, the cost of business entry is 228.9% of GNI/capita (US$640.92([2002 figures] Time to register a business (37 days) is however one of the best in Africa.

and Small Business Development, organized by the faculty of Management and Commerce at the University of Dar es Salaam, Kitilya was quoted as arguing that ‘procedures for issuing business licences and collection of taxes are cited among the main problems facing SMEs’ (Mwakalebela, L. (2003c) ‘Revenue Authority Calls for New Trade Licencing System’, Business Times, Dar es Salaam, Sept. 19).

THE BEST PROGRAMME

The Business Environment Strengthening for Tanzania programme, adopted by the GoT on 22 July 2002 (United Republic of Tanzania) [2003] *Business Environment Strengthening for Tanzania (BEST programme*), Dar-es-Salaam, January) is a multi-door programme with a number of core components.

The first component is ‘Achieving better regulation’. The document (compiled by a consultant) is permeated with RBP ideas. These include establishing a Better Regulation Unit within the Civil Service Department (p. 14); reviewing and reforming central and local taxation (p.16); a comprehensive review of labour legislation (p.23); reforms to business licencing and registration procedures (p.25); and the establishment of RIAs (p.31). The BEST document suggests that regulatory reform is aligned with the policy of the GoT, especially as spelled out in the May 2000 *Integrated Framework for Trade* (p.9). It suggests that both de-regulation and re-regulation and argues that ‘better regulation allows growth of the ‘missing middle’ (p.10).

The other components are ‘improving Commercial Dispute Resolution’ (p.36), ‘Strengthening the Tanzania Investment Centre (p.56), ‘Changing the Culture of Government (p.59) and Empowering Private Sector Advocacy’ (p. 65). The BEST document provides strong evidence of RBP ideas behind each of these components.

TAX REFORM

Tanzania has implemented a four-band Personal Income Tax Scheme for small and medium traders ‘in its efforts to streamline taxation for SMEs’ (Mwakalebela, L. (2003a) ibid). But according to TRA commissioner-general Kitilya, in the same article, ‘objection and appeal procedures are not clearly provided for’.

A draft Income Tax Act has been prepared. It has been criticised by the PSF, in the form of chairman Elvis Musiba, for being ‘anti-business’. But his objections are to the greater powers proposed for the TRA. Musiba says: ‘a tax collector (will be able to) put you behind bars for not paying tax!’ (Machumu, B. (2003a) ‘Income Tax Law ‘Anti-Business’’, *Business Times*, Dar es Salaam, Sept. 12). The Act also repeals parts of the Tanzania Investment Act of 1997 protecting the TIC – which has criticized the proposed legislation on the grounds that it undermines investor certainty. Generally the proposed Act appears to propose reforming (modernizing) the tax system aimed primarily at improved revenue collec tion (Machumu, B. (2003b) 'Proposed Income Tax 2003 Wrangle', Business Times, Dar es Salaam, Sept. 19). Where RBP is in this is not clear.

Tanzania established the Tanzania Revenue Authority (TRA) in 1995. The organisation may be in the process of becoming an advocate of RBP as it has recently suggested that the current taxation regime for SMEs is cumbersome and needs reform (2003). It has also called for a new trade licencing regime (2003). VAT was introduced in July 1998. The 2001/02 budget introduced VAT exemptions on certain types of goods – milk packaging materials, computers and other IT hardware, and locally produced yarn – in an attempt to boost these sectors. RBP is not an explicit strategic goal of the TRA – but it certainly does not contradict any of the organisations publicly proclaimed goals, especially the first – 'to increase revenue in a cost effective way' (see Tanzania Revenue Authority [2003], *TRA Second Corporate Plan at a Glance*).

CONCLUSION

What is particularly impressive about Tanzania from an RBP awareness perspective is the extent to which public statements by prominent figures, on the subject, have accelerated very recently. These statements include the 2003 budget speeches by Ministers Mramba and Kigoda, as well as 2003 statements on hurdles to small business development by, among others, the commissioner general of the TRA. Perhaps most notable of all is President Mkapa's 2003 statement that 'the de Soto model' is the chosen mean of formalizing the informal sector.

While individuals in Tanzania's policy apex have demonstrated exemplary awareness of RBP ideas over he last couple of years, it must be remembered that the country has a legacy of socialist central planning. There is thus reason for concern about the extent to which the vast mass of the public sector has adopted the new agenda. The 'complacency' referred to in section 7 (Consultation with the Private Sector) may, to a degree, be a reflection of policy inertia, the habit minimal compliance or both, in the civil service. In implementation, the role of newer institutions, untainted by the country's history of centralization, may be crucial. One such institution is obviously the TRA. Another which may have potential is the TIC, despite the general tendency of this sort of institution to confine its scope of responsibility to foreign investors. Political support is of course crucial and some observers have voiced reservations about the power of the (RBP-oriented) group around President Mkapa when it comes to taking on entrenched political interests. It should be added that the obvious next step in any formal RBP strategy is the introduction of some sort of regulatory review/impact assessment institution.

One likely hurdle ahead is likely to be pressure for local preferences which can have massively negative RBP implications. Organised business appears to have a considerable distance to go to achieving representivity and organisational coherence – and if the quotation from the chairman of the PSF is anything to go by (an expression of outrage that the authorities should be able to imprison tax defaulters) – there may be an entirely inadequate understanding of the role of regulation, whether negative or positive, within the indigenous private sector. Such a weakness may well drive future rent-seeking behaviour, with negative RBP implications.

In keeping with Tanzanian tradition the agenda is state-driven. This emphasizes the needs for state and administrative reform as a component of RBP and for the emergence of a coherent private sector voice.

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UGANDA

GLOSSARY

AfDB	African Development Bank
CSO	Civil Society Organisation
DC	Deregulation Committee
DFID	Department for International Development (UK)
DP	Deregulation Project
DPMF	Development Policy Management Forum
DTF	Deregulation Task Force
ERP	Economic Recovery Programme
FUE	Federation of Ugandan Employers
GoU	Government of Uganda
IMF	International Monetary Fund
MoFPED	Ministry of Finance Planning and Economic Development
MTCS	Medium Term Competitiveness Strategy
PEAP	Poverty Eradication Action Plan
PEC	President's Economic Council
PMA	Plan for the Modernisation of Agriculture
PRSP	Poverty Reduction Strategy Paper
PSF	Private Sector Foundation
RIA	Regulatory Impact Assessment
RIU	Regulatory Impact Unit
UEPB	Uganda Export Promotion Board
UIA	Uganda Investment Authority
UMA	Ugandan Manufacturers Association
UMI	Uganda Management Institute
UNCTAD	United Nations Conference on Trade and Development
USSIA	Ugandan Small Scale Industries Association
UTB	Uganda Tourism Board
VAT	Value Added Tax

INTRODUCTION

Uganda achieved considerable political stability after President Museveni came to power and instituted a 'no party' regime after 1986. Although the structure of the political system has been challenged in recent years, it did establish a basis for economic growth. Under the Economic Recovery Programme (ERP), introduced with World Bank and IMF support in 1987, economic growth sustained levels of 6-7% for most of the 1990s. Since 2000 growth has declined with the 2002/3 projected growth rate standing at 4.9%. Key current issues are the prospects for a multi-party system and whether to allow a constitutional amendment to enable Museveni to stand for a third term.

The Government of Uganda (GoU) has been virtually a model client from the perspective of multilateral donors, having liberalized the economy, committed itself to private sector-led development, embarked on a privatisation programme in 1997 and taken on a Regulatory Best Practice (RBP) agenda. Average annual foreign direct investment flows to Uganda have tripled over the past decade[12], and now stand at about the average for Sub-Saharan Africa. However private sector growth and employment creation is still somewhat fragile, with donor support to the budget standing at around 52%.

Whereas Government has committed to promoting private sector investment by reducing the barriers that exist to private sector activity, Uganda still suffers from a non-transparent and poorly-enforced institutional framework, particularly in the areas of law and taxation.[13] This environment remains a disincentive to investment, not only because of the time taken to comply with regulations, but also in terms of unnecessary regulatory costs placed on business, the scope for corruption on the part of Government officials, and the uncertain business environment it creates.[14]

The World Bank's *Doing Business in 2004* shows that Uganda's record is mixed. It has 17 separate procedural requirements for new businesses, as compared to 11 in Kenya and 8 in Malaysia and 7 Singapore. Uganda does fare better on the number of days needed to establish a business, but scores very badly indeed on the costs of starting a business – 135.1% of per capita gross national income.

In the recent *FIAS Administrative and Regulatory Cost Survey*, compiled as a part of the process of producing the agency's 2003 administrative barriers report on Uganda (*Uganda: Administrative Barriers to Investment Update*) many respondents agreed that the business environment in general had improved, but that 'significant cross-cutting issues relating to administrative barriers remain to be addressed' (p. ix). These issues included:

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12 From US$45 million (1990 – 1995) to US$171 million (1997 – 2000)

13 See Government of Uganda Strategies to Promote Economic Growth, Progress Report, May 2003 at p.17

14 See *Uganda Regulatory Cost Survey,* Deregulation Project, MoFPED, Oct 2000

- Lack of consistency between existing laws/regulations and procedures actually being implemented;
- Cumbersome and costly mechanisms for payments of fees for administrative transactions;
- The lack of consistency in the decentralization of administrative responsibility to local governments, with a consequent tendency towards duplication of licensing and fees, and a focus on revenue generation that does not take into account the combined burden of taxes and licensing fees on businesses;
- Poor coordination between various initiatives for streamlining administrative procedures, with little evidence of clear leadership or a strategic approach to implementation.

The FIAS study shows that there is still some way to go before Uganda's business environment provides a positive incentive for informal companies to become part of the formal sector, and achieves a reputation amongst local and international investors as being fair and transparent, with low transaction costs.

Nevertheless, Uganda’s commendable efforts at transforming its economy qualified it for the World Bank’s Highly Indebted Poor Countries (HIPC) debt relief programme in 1998 and for the accelerated programme 3 years later. Uganda was the first Africa country to submit a Poverty Reduction Strategy Paper (PRSP) to the World Bank.

NATIONAL VISION 2025

Vision 2025 – a Strategic Framework for National Development, published in 1998, appears to be closely related to the PRSP. It established a broad vision of sustainable socio-economic development for the country, with a focus on macro economic reform and a strong environmental content. Whilst there are references to making the economy more competitive, removal of legal and administrative constraints to business was not noted as an action leading to this output.

POVERTY ERADICATION ACTION PLAN (PEAP) AND THE POVERTY REDUCTION STRATEGY PAPER (PRSP)

Central to Uganda’s reforms during the 1990s was the determination to deliver a conducive macro-economic environment that would allow the private sector to thrive. The design of the Poverty Eradication Action Plan (PEAP) in 1997 (and its revision into the PRSP in 2000) further deepened the national focus on development programmes to eradicate poverty through raising the incomes of the poor, boosting economic growth. PEAP established ‘4 pillars’ for achieving poverty eradication:

1. fast and sustainable economic growth and structural transformation;

2. good governance and security;
3. increased ability of the poor to raise their incomes;
4. increased quality of life for the poor.

Both pillars 1 and 3 lend themselves to an RBP interpretation, although the emphasis is on macro-economic stability. In this, it places some importance on economic openness. The lead role of the private sector in development is acknowledged in pillar 1, together with an acknowledgement that 'the constraints on private sector competitiveness need to be removed.'

The PRSP, dated 2000, shows some awareness of RBP. In this, it accords with the donor (DFID) intention of 'linking the Deregulation Task Force (DTF) agenda into the mainstream of Uganda's economic growth and poverty reduction (strategies)' (Scott, H. [2003]).

The PEAP is currently under review, with the need to remove barriers to private sector growth being expected to feature more prominently.

PRIVATE SECTOR CONSULTATION

Existing formal bridges for consultation between Government, the private sector and civil society have varied in terms of effectiveness. They include:

- The PEAP mentioned above, which is revised every 3 years and is probably the most fully consultative government initiative, with involvement of donors, CSOs, private sector, Government and academia. Sector working groups have been established, with one of these being devoted to private sector growth. The private sector is afforded an opportunity to have input into any other working group.
- The annual National Budget Process which begins in October each year, with a consultative workshop hosted by Government and involving the private sector, donors and civil society organisations. Each of these groups presents its own budget framework paper and they have additional opportunity for consultation as the process progresses, through to submission to Parliament in April.
- Consultative Group Conference which used to consist of an annual discussion between donors and Government, but more recently has evolved as a consultative forum for Government, donors, the private sector and civil society to discuss government's performance and priorities for the future.
- President's Economic Council (PEC): The influence of this forum has declined in recent years with an increasing tendency towards a sector-wide approach to policy development, and more opportunities for wider engagement, particularly with civil society groups.

- The joint government, private sector and donor Medium Term Competitive Strategy (MTCS) Steering Committee which has recently been established as part of the revitalisation of the MTCS monitoring process, and which will meet quarterly.

A number of representative business organisations, of varying capacity and effectiveness, exist in Uganda, with their main objective being to lobby Government and influence policy. Few however, with the notable exception of the Uganda Manufacturers Association, have the resources, specialised staff and infrastructure to facilitate systematic evidence based advocacy, and that which is done tends to be reactive, and focused on annual submissions to the Budget.

This means that notwithstanding limited opportunities for consultation do exist, all too often laws and regulations are passed that impose unnecessary costs on business. Private sector associations need to adopt an evidence-based approach to commenting on regulatory proposals in order to raise the standard of policy debate in Uganda, and in order to challenge Government to stand by its commitments to improving the business environment.

The recent launch of the Development Policy Management Forum (DPMF) by the Uganda Management Institute (UMI), with funding from the UN Economic Commission for Africa, as a means of creating an alternative forum outside Government to discuss national policies, is encouraging. Participation in this initiative will include civil society, academia, the private sector, and Government.

It should be noted that there was 'significant input from the private sector through a consultative and participatory process' leading to the drafting of the Medium Term Competitiveness Strategy, and that the consultative committee referred to in that document, (which came to be known as the Deregulation Committee), met regulatory to discuss regulatory issues of concern to the private sector. This Committee which was jointly chaired by Government and the private sector generated a high degree of commitment to reform, as evidenced by the official minutes and a commendable attendance record.

THE MEDIUM TERM COMPETITIVE STRATEGY (MTCS) AND THE PLAN FOR MODERNISATION OF AGRICULTURE (PMA)

In August 2000 Government launched both the MTCS and the PMA as tools to address bottlenecks to private sector development and sustained economic growth. The MTCS outlined Government's 5-year plan for a series of cross-cutting structural reforms aimed at improving the business environment for the private sector and boosting domestic activity, whilst the PMA outlined a series of multi-sectoral interventions aimed at improving agricultural productivity in order to boost output and increase the incomes of the poor.

In itself the MTCS document is an exemplar of RBP ideas on paper.

The stated objective of MTCS is 'to further improve the business environment for the private sector to be able to compete, boost domestic economic activity and increase Uganda's exports to the global market place. This entails,' the paper continues, 'increasing productivity and profitability at firm level by reducing the cost of doing business and creating an environment where private investment is viable' (para 2.1.). That said, there does appear to be a fairly limited understanding among public officials of the link between business growth and poverty reduction, the link between good quality regulation and business growth, and the inequitable burden imposed on small firms by poor quality regulation (Scott and Darroll [2002]). If it is correct that these linkages are not well understood, attitudes towards the design and use of regulation can be expected to change slowly. In addition, if these linkages are not be well understood by all business groups, civil society organizations and the general public, the pressure for policy interventions with obvious and immediate benefits to particular groups can be expected to be stronger than any concern for better regulation, whose benefits are typically spread more widely across a larger proportion of the population.

The MTCS is particularly strong on RBP in the section on micro finance, stressing that 'the regulatory environment for micro finance institutions is very important'. In this section the document shows an awareness of the need for 'appropriate regulation', recognising the trade-offs between the integrity of the financial system and the opportunities created less stringent regulation (para 3.2.4.) It also notes that 'the role of government will be limited to the provision of the appropriate legal and policy environment, and capacity building' and that 'government will … divest itself from direct delivery of credit.' (para 3.2.4.)

RBP is dealt with directly and in some detail in section 3.3.3. 'Improving the Legal Environment.' It is noted that the legal hurdles to private sector development go beyond commercial law and include such areas as immigration and employment legislation. 'It is important,' the MTCS says, that 'the process of imposing more red tape or other barriers impeding business development does not continue.' The document then goes on to advocate regulatory impact assessments (RIAs) as the appropriate mechanism – but stresses that this is for 'the medium to longer term'.

Section 3.4. 'Institutional Reforms' adds weight to the RBP aspect of the document. Section 3.4.3. refers to the 1996 Foreign Investment Advisory Service (FIAS) *Administrative Barriers* study and emphasises the need to simplify administrative procedures. It also mentions DFID's support of Uganda's Deregulation Programme (DP).

Other notable points made in the MTCS are: i) advocacy of leasing mechanisms; ii) refocusing the Uganda Investment Authority (UIA) to play an advocacy role in improving the domestic investment climate; iii) the link between over-regulation and corruption (pp. 30-32 and more overtly p.29); iv) and the point that the most important constraint on SME development is the regulatory environment.

While the MTCS is virtually an ideal document from an RBP perspective, implementation has been patchy and lacking adequate benchmarks.[15] Disappointment in this regard has led to some interventionist decisions by Government that are widely believed to be of questionable merit, i.e. Government support for the Tri-star garment factory to manufacture clothing for export under the AGOA initiative, and the targeting of certain sub-sectors for special support under the Strategic Exports Initiative, absent an appropriate level of analytical research to ensure such interventions represent an efficient use of public resources.

On a more positive note, poor performance of the MTCS has also led to a recent revitalization of the MTCS monitoring and implementation process. This has involved the establishment of new institutional arrangements including a secretariat reporting to a private/public partnership MTCS Steering Committee, for moving forward in those areas in which implementation has been limited, developing private sector linkages, and monitoring and benchmarking outputs. The MTCS Secretariat will work closely with the PMA secretariat, ensuring that crosscutting policy areas receive adequate and coordinated coverage under both programmes, and it will co-ordinate the Strategic Exports Programme.[16]

RECENT BUDGET COMMITMENTS

The Budget Act passed in 2001, requires that every Bill introduced to Parliament be accompanied by its indicative financial implications on both revenue and expenditure. Whereas a broad interpretation could suggest this requires ministries to identify the compliance cost implications for taxpayers as well as budget implications for Government, the tendency to date has been for ministries, including the MoFPED, to consider only the direct implications for the budget and to overlook revenue and economic implications, and a broader examination (and comparison) of costs and benefits. In addition, a formal standardised approach that incorporates the principles of RBP in submitting principles of new laws, or new laws themselves, to Cabinet for approval, does not yet exist.

However, this is changing. The Ministry of Finance, with support from the DFID-funded Deregulation Project, has been working closely with some ministries, notably the Ministries of Health and with representatives of policy analysis units in other ministries, to develop proposals for policy and regulatory reform according to the RBP discipline.[17] It is also working with the Prime Minister’s Office which has recently been mandated to co-ordinate and oversee policy development in ministries, to ensure that this approach becomes embedded, and with the Ministry of Public Service to look at ways of incorporating training on RBP into civil service career development plans.

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15 See Government of Uganda *Strategies to Promote Economic Growth*, Progress Report, May 2003 at p.10

16 *See Institutional Arrangements for Coordination and Monitoring of the MTCS and Strategic Exports Programme in Conjunction with the PMA, 2002* – MTCS Secretariat, MoFPED

17 See Quarter 11 Deregulation Progress Report Jan – March 2003

In addition, a proposed new draft framework for submission to Cabinet of principles of laws or amendments that have significant implications for the economy, society or the environment, which has been modeled on the RBP / RIA discipline is in circulation for input and comment.

The Budget Framework documents of 2003/3 and 2003/4 commit to introducing ‘best practice’ standards into Uganda law-making so that any new regulations, before they are passed, are properly conceived and consulted on, keep compliance costs to a minimum, and represent the best possible solution to a problem. The latter document also refers to a ‘longer-term goal [of] establish[ing] an independent Regulatory Impact Assessment Monitoring Unit within Government to assist ministries in the preparation of their cost/benefit analyses, and to conduct independent analysis as required.

The Budget Speech of 12th June 2003 confirms, ‘Government is committed to adopting in its laws and policy making processes, the principle of Regulatory Best Practice,’ and that ‘any laws must be analysed in terms of their cost implications on business.’

THE DEREGULATION PROJECT

The DFID funded Deregulation Task Force (DTF) housed in the Ministry of Finance Planning and Economic Development (MoFPED), was launched in 2000. Its original mandate was to research particular regulatory issues, prepare papers and proposals for legislative and regulatory change, to advocate those changes and to measure impact. In practice the mandate has developed into 4 roles: i) a policy think tank and influencing role; ii) a regulatory impact watchdog role; iii) a legal and regulatory reform role, and; iv) a testing and implementation of new regulations role.

The funder’s own 2002 review of the Deregulation Programme (DP) identified considerable success in the first of these roles – essentially spreading awareness of RBP in key government circles. The Project introduced the concept of Regulatory Best Practice to Uganda, initially through workshops which exposed RBP to Cabinet Ministers, Members of Parliament, ministry officials and policy analysts from business, employer and employee associations. These workshops have allowed the RBP concept to begin to find purchase among the key actors within the government and some parts of the private sector. A Parliamentary Taskforce on Better Regulation has been formed, and its 32 members, with strong support from the Honourable Speaker, have begun to actively get involved in ensuring that proposed legislation is subjected to principles of RBP.[18] In addition, the Office of the President and the Cabinet Secretariat have become fully convinced of the value of RBP – having re

18 As evidenced by a review of Hansard debates of April 2003 on recently proposed legislation such as the Repeal Bill for the Uganda Tea Decree 2002, the National Youth Council Amendment Bill, 2002, the Land Amendment Bill, 2002, and the Report of the Committee on Finance, Planning and Economic Development on the Budgetary Estimates for the Financial Year 2002/3.

cently experienced difficulties when laws have been passed but have proven difficult or impossible to implement. A core group of Permanent Secretaries have begun to taken ownership of the concepts and principles of RBP (Scott and Darroll [2002]).

In addition, the Project has established a private/public Deregulation Committee (DC), designed to provide a forum for dialogue about, and to approve proposals for, reforming impediments to business growth. The DC is intended to broaden the platform for reform and also to build the capacity to implement reforms within Government. The Committee is jointly chaired by Government and the private sector, and includes Permanent Secretaries from the Prime Minister's Office and the five main ministries that interface with business, the Deputy Commissioner General of the Uganda Revenue Authority, and five leading private sector representatives. The Deregulation Committee's creation and functioning demonstrates that effective and focused dialogue on regulatory issues affecting the private sector in Uganda is achievable.

In its other roles – regulatory watchdog, reform and testing new regulations – the DTF appears to have had considerable impact but at the expense of generating resistance within some parts of the public service. This, the funder believes, makes it desirable that 'ownership' of the DP is seen to be taken by GoU, and it is likely that the Project will become part and parcel of the MTCS Secretariat in the next phase of its implementation, reporting to the MTCS Steering Committee. Successes include a pilot Streamlined Trade Licencing System, launched in Entebbe Municipality in 2002, inputs into the labour law reform process and reforms to the tax appeals process (se UMA [2003]). The DTF is also working to implement RBP in customs and tax administration.

Although Government has accepted that RBP cannot be the preserve of one project and needs to be fully co-ordinated and mainstreamed into Government thinking,[19] as the 2003 FIAS Report has noted, there is still concern at the lack of co-ordination in regulatory initiatives that impact on the business environment. For example, there is an inherent tension between the use of multiple licensing at local government level to generate revenue, the particularly regressive impact this is having on small and micro rural entrepreneurs, and the stated objective of Government being to eliminate poverty by among other things, minimising the regulatory cost burdens placed upon business.[20] This approach also conflicts with the new approach to business licensing approved by the Deregulation Committee in 2002, – to separate registration from revenue and regulation, and reduce transaction costs to businesses.

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[19] See Government of Uganda *Strategies to Promote Economic Growth*, Progress Report, May 2003 at p.19

[20] See Uganda Participatory Poverty Assessment Process (UPPAP) Dec 2002: National Report, and Government of Uganda *Strategies to Promote Economic Growth*, Progress Report, May 2003, at p21.

In addition, it has been noted that some of the laws currently being re-drafted by the Uganda Law Reform Commission (ULRC) under the Commercial Justice Reform Programme, and relevant line ministries are not being subjected to regulatory best-practice assessments during the drafting process, and may therefore result in legislation which is not conducive to the development of the private sector. [21]

OTHER EVIDENCE OF RBP

Government's Commercial Justice Programme has made significant headway since May 2001 in reforming Kampala's commercial court which is central to commercial dispute resolution, particularly in terms of efficiency and transparency. The time taken for a case to come to trial can be as little as two months, whereas previously it could take upward of a year. In addition, the reform of the Arbitration and Conciliation Act of 2000 has streamlined mediation, conciliation and arbitration, thus enhancing alternative dispute resolution. It is under this Act that Uganda has established the Centre for Arbitration and Dispute Resolution. Going forward, in addition to reforming the companies registry and the land registry, the programme intends to explore ways of extending the services of the Commercial Court up-country, and improve delivery standards in the lower courts. The purpose of these reforms is to reduce institutional transaction costs imposed on businesses operating in Uganda.

There have been recent moves to streamline tax administration and reduce corruption in the Uganda Revenue Authority (URA), including separation of the tax collection and assessment functions, the institution of the Tax Appeals Tribunal, a public enquiry into corruption. However, URA is currently only at the start of its reform process and, as the 2003 FIAS study notes, efficiency and transparency of tax administration needs to improve significantly.

Likewise investment screening and the need to provide detailed information on investment plans to the Uganda Investment Authority when submitting an application for investment have been dispensed with in practice.

In addition, there are plans for the President to issue an Investment Statement reinforcing the country's commitment to attracting investment and to provide an appropriate legal and regulatory framework for investment, whilst also ensuring that investors receive an exemplary level of service.

[21] See Government of Uganda *Strategies to Promote Economic Growth*, Progress Report, May 2003 at p.20

CONCLUSION

Uganda ranked first among the 12 African countries for which a study of RBP awareness was conducted by SBP in late 2003. The depth of awareness evidenced in key macro-policy documents – such as the MTCS and the PEAP – are in a qualitatively superior category to any other case study country. As Uganda is still in a state of relative underdevelopment, even by comparison with many other African countries, this commitment provides a key test of the assertion that RBP should be seen as part of a growth strategy, not an add-on.

The major challenges facing Uganda are directly related to relative economic and institutional fragility. As this report indicates, implementation is consistently less impressive than public expressions of commitment. The Budget Act provides a good example of this, in that it demonstrates the tendency for public bureaucracies toward minimal RBP compliance – which is by no means a unique Ugandan problem of course. The civil service is willing to implement RBP requirements only up to a certain point – in this case involving calculation of the on-budget implications of legislation – while wider RBP concerns, being only implicit and not mandatory, tend to be ignored.

Private Sector representation appears to be generally fragile in Uganda, a fact related to economic underdevelopment. There is no single strong umbrella organisation with policy research and advocacy capacity although the development of the recently-established DPMF should be watched. The UMA does however appear to have taken the RBP agenda on board – a commitment which may tend to counteract the sort of rent-seeking behaviour that can become characteristic of organised business under circumstances of weakness. Given the circumstances, government's commitment to involving the private sector – around strategic and budgetary planning – cannot really be faulted. A more systematic engagement is an obvious next step.

The Deregulation Project appears to have been extremely successful in entrenching RBP in the public agenda in Uganda. The commitment of senior politicians appears especially impressive. Where donor organisations provide more than half the national budget – as is the case in Uganda – they can of course be expected to wield great influence in public policy. But Uganda does nevertheless appear to have moved some distance beyond uncritical acceptance of the donor agendas. As with RBP generally, the real test of the DP lies ahead; it will be determined by the success and results of implementation. In the DP's case, establishing a RIU/RIA process will be critical.

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ZAMBIA

GLOSSARY

ACF	Agricultural Consultative Forum
ACP	Africa Caribbean Pacific
BLCF	Business Linkage Challenge Fund
CA	Communications Authority
CBC	Commonwealth Business Council
CUTS-ARC	Consumer Unity and Trust Society – Africa Resource Centre
DFID	Department for International Development
EDF	European Development Fund
ERB	Energy Regulatory Board
FIAS	Foreign Investment Advisory Service
FSRP	Food Security Rewsearch Project
GMO	Genetically Modified Organisms
HIPC	Highly Indebted Poor Country
IFD	Investment for Development
ILO	International Labour Organisation
MMPD	Movement for Multiparty Democracy
PSDP	Private Sector Development Programme
RIZES	Revenue Institutions in Zambia: Enhancement Support
SEC	Securities Exchange Commission
SIDA	Swedish International Development Agency
USAID	United States Agency for International Development
WTO	World Trade Organisation
ZAMTIE	Zambia Trade and Investment Enhancement
ZESCO	Zambia Electricity Supply Corporation
ZIBAC	Zambia International Investment Advisory Council
ZPA	Zambia Privatisation Agency
ZRA	Zambia Revenue Authority

INTRODUCTION

At independence Zambia was considered to be one of the wealthiest countries on the African continent. With rich copper and cobalt deposits, Zambia was expected to have continued economic growth. Soon after independence the Government nationalised most major industries and mines. The fall in copper price coupled with the inefficient management of state owned enterprises put the economy under extreme pressure.

In 1991 Zambia moved to a multiparty democracy and elected the leader of the Movement for Multiparty Democracy (MMD), Fredrick Chiluba as President. Soon after elections the Government introduced economic reforms aimed at liberalising the economy. Government policy was to introduce a 'free market' economy. They removed foreign exchange controls, liberalised interest rates, introduced protection for investors, abolished price controls and embarked on an aggressive privatisation programme.

Rapid change brought new regulations and agencies which were to govern the private sector. Although many positive steps were taken by the government numerous gaps still exist. The enabling environment for business remains weak as the government hasn't been able to present a complete policy framework, a clear concept of the economy or private sector. A review of the enabling environment for business in Zambia was carried out by DCDM for Bannock Consulting (funded by DFID).

In the most contested elections in Zambian history, Levy Mwanawasa was elected President in 2001. With a large opposition in parliament and dissent within President Mwanawasa's own MMD party, the Government is struggling to survive. Recently a 'vote of no confidence' was brought against the President. Although it was defeated, many within his party voted to remove the President. This unstable political environment has made it difficult to establish a clear policy focus. Beyond the 'fight against corruption' many in the private sector are uncertain of where the regulatory framework is headed. In the past three years Zambia has seen six different Ministers of Finance and nearly six different Ministers of Commerce Trade & Industry. As such, Government policies have lacked consistency.

The move to a liberalised free market economy has been difficult and public support for further change has diminished. The current Government has been more cautious and reluctant than their predecessors. Although the Zambian Privatisation Agency (ZPA) made significant progress in bringing the private sector back into the economy, the process has not yielded the results that Zambians expected. With evidence of corruption and poor privatisation decisions the political agenda seems to be shifting toward more State control over the economy.

This shift was most evident in the recently circulated draft Investment Act which many in the private sector have dubbed the 'anti-investment act'. The proposed Act would give Government sweeping powers to revoke all operating licenses if investors are deemed not to be following their initially approved business plan.

The Government has published their Poverty Reduction Strategy Paper; however its implementation has come into question by the IMF. The Government's refusal to privatise the National Commercial Bank of Zambia and the Zambian Electricity Supply Corporation (ZESCO) put them on a collision course with the IMF. This move has also threatened Zambia's qualification for Highly Indebted Poor Country (HIPC) debt relief, where $4 billion of Zambia's $7 billion debt is to be forgiven.

GOVERNMENT INSTITUTIONS

The Ministry of Finance and Economic Development and the Ministry of Commerce Trade & Industry are the two main institutions that affect the broader regulatory framework. With the exception of the Ministry of Labour the other ministries play a more sector specific role such as the Ministry of Agriculture and the Ministry of Mines.

The Ministry of Finance is responsible for setting tax and trade tariffs that are then enforced and managed by the Zambian Revenue Authority (ZRA). Monetary policy is set and managed by the Bank of Zambia.

The Ministry of Commerce Trade & Industry have several agencies that concern private sector, these include the Zambian Privatisation Agency, Zambian Investment Centre, Office of the Company Registrar and the Export Board of Zambia.

The key regulatory bodies responsible for managing the 'rules' of doing business include:

- Bank of Zambia
- Securities Exchange Commission (SEC)
- Competition Commission
- Energy Regulatory Board (ERB)
- Communications Authority (CA)
- Environmental Council
- National Water Supply & Sanitation Council

While these bodies were formed to manage the new market economy, several key sectors are still controlled by State owned enterprises. Generally, regulators have not demonstrated effective management, especially where State owned enterprises are involved. The private sector is also questioning the costs of having regulators versus the benefits. Currently the ERB charges a 0.45% levy on all fuel sales, on top of all other government tax. On a more positive note, the Zambian SEC have harmonised their listing requirements with the JSE, making it easier for Zambian companies to cross list.

INTERNATIONAL DONORS

Nearly 50% of Zambia's fiscal budget comes from international donors and as such they have influence over the direction of Government policy. To what extent the donors use this influence is uncertain, they have however been actively involved in supporting Government policy formulation and capacity building within Government institutions. Donors are also supporting initiatives that encourage the private sector and civil society at large to engage Government on policy issues.

World Bank & IMF

The IMF play a significant role in driving policy change in Zambia, with budgetary support and HIPC debt relief as leverage the IMF are the most influential foreign agency acting in Zambia.

Jointly, the World Bank and IMF operate *Foreign Investment Advisory Services (FIAS).* Since 1992 FIAS have been involved in several projects, including:

- Investment Policy Statement & Investment Promotion Act (1992/93)
- Policy Framework for Attracting Investment into the Infrastructure Sector (1998/99)
- co-financed by SIDA
- Zambia's Investor Road Map (1998) co-financed by USAID
- Coordinating Secretariat for the Growth Triangle Project: Zambia, Malawi &
- Mozambique (2001) co-financed by UNDP
- Administrative Barriers to Investment: Updating the Investor Road Map (Current)
- co-financed by DFID

A component of the current FIAS study will pilot a joint Investment Climate/ Administrative and Regulatory Cost Survey. Findings are expected to be presented in late 2003.

Beyond the work carried out under FIAS, the extent of World Bank – IMF involvement in supporting appropriate regulation is not clear.

UK's Department for International Development (DFID)

DFID are the largest bilateral donor in Zambia and are supporting several initiatives that look to improve the Governments ability to formulate and implement appropriate policy.

Revenue Institutions in Zambia: Enhancement Support (RIZES): Since 1993 DFID have been supporting the institutional capacity building of the Zambian Revenue Authority (ZRA). A new component of the RIZES programme is focusing on building capacity within civil society to lobby government for better tax policies. A Project Steering Committee has been established and consists of representatives from the following organisations:

- Economic Association of Zambia (lead partner)
- Congress of Zambian Trade Unions
- Federation of Employers
- Zambian Association of Manufacturers
- Catholic Church Commission for Justice & Peace

DFID are supporting research that will inform the civil society Project Steering Committee on specific issues. Two papers that have recently been commissioned will investigate the *Efficiency of Government Spending* and *Non-tax Government Revenue.* The thinking behind this initiative is that civil society will be better able to engage Government once they are informed themselves.

At the request of the President, DFID are supporting the *Zambian International Business Advisory Council* (ZIBAC) previously known as the *Presidential Investment Advisory Council*. The Commonwealth Business Council is managing the process and has been given a two year mandate starting in September 2003. The council is composed of individuals who have no business interests in Zambia. It met for the first time in Livingstone in October 2003.

Consumer Unity and Trust Society – Africa Resource Centre (CUTS-ARC): With extensive DFID funding this Indian NGO has established an office in Zambia. The organisation conducts research and advocacy. The following four projects are currently being undertaken:

- Fostering Equity and Accountability in the Trading System (FEATS)
- Advocacy, training and capacity building around trade issues
- Implemented in eastern and southern Africa
- 7UP (Comparative Study of Competition Regimes in Pakistan, India, Sri Lanka, Zambia, South Africa, Kenya and Tanzania)
- Research & advocacy on competition policy and consumer welfare
- Consumer Protection: Supporting consumer organisations in Uganda, Kenya, Zambia, Malawi, Zimbabwe, South Africa and Mozambique.
- Investment for Development Project (IFD): 2 year research and advocacy on investment regimes
- Covering South Africa, Tanzania, Zambia, Bangladesh, Hungry and India
- Recently published: National Advocacy Document for Zambia
- Established a National Reference Group in Zambia that meet regularly to discuss investment issues.

DFID are currently in the process of developing their Country Assistance Plan. The plan will be finalised later this year and it is expected that the agricultural sector will feature strongly. A recent study commissioned by DFID investigates the drivers of agricultural policy environment.

United States Agency for International Development (USAID)

USAID are supporting several initiatives that seek a better regulatory framework. Their recently completed Country Strategy Paper for Zambia has a strong focus on Agriculture. The following USAID funded activities are of relevance:

Zambian Trade & Investment Enhancement (ZAMTIE): Nathan & Associates are the lead contractor of the programme. Zamtie is scheduled to runs from 2000-2004 and has a $5 million budget. The programme has three main components:

- Reducing Barriers to Trade and Investment
  - Create a forum for trade and investment dialogue between public and private stakeholders
  - Sensitise the public to important issues and policy changes
  - Conduct studies and disseminate the findings
  - Hold annual National Seminars on trade and investment.
- Capacity Building
  - Hold joint-private workshops on WTO, regional trade integration and investment.
  - Design trade and investment policy training programmes for government and private sector
  - Prioritise needs, design and prioritise capacity building training programmes for business chambers and associations and trade and investment service institutions.
- Fostering Linkages
  - Establish a trade and investment website
  - Support trade fairs
  - Conduct third-country trade missions and observation tours
  - Conduct in-country observation tours
  - Organise and conduct inter-country visits for regional investors, traders and other business people.

Zamtie facilitated and are funding the Business Forum, a leading private sector lobby organisation. Specific Business Forum activities are detailed further in this report. In late 2003, the Business Forum approached several international donor agencies with a proposal to become an independent project. Donors are said to have reservations and the issue is expected to be settled in early 2004.

Zamtie have a satellite office within the Ministry of Commerce Trade & Industry where they have been working with Government to develop position papers for trade negotiations.

Zamtie are also opening a satellite office within the Zambian National Farmers Union. They have facilitated and are funding an Agricultural Trade Forum which will investigate specific agricultural trade issues and lobby government.

While it is not clear how far they have gone in fostering linkages (third component), Zamtie have made good progress in developing dialogue between Government and the private sector.

Food Security Research Project (FSRP): Michigan State University have been implementing FSRP project on behalf of USAID since 1999. The project has been renewed with a $4.3 million budget carrying the project until 2007. The project conducts research that is used to inform policy decision. Recently the Ministry of Agriculture stated their interest in establishing Crop Marketing Authorities (CMA), FSRP have been studying the proposal and are advising Government of the implications. While sector focused, the FSRP is a good example of a regulatory best practise initiative.

Agricultural Consultative Forum (ACF): Co-finance by the Dutch and Norwegian Embassies this initiative brings together 21 key members representing:

- Agribusiness
- Non-governmental Organisations
- Zambian National Farmers Union
- Association of Peasant & Small Scale Farmers.

The forum produces advisory notes for the Minister of Agriculture on issues that affect the sector as a whole. Recently they have raised concerns over the role of Government in the distribution of seeds and fertilisers as well as engaging the Government on issues around Genetically Modified Organisms (GMO).

Energy Regulation Board, Competition Commission, Securities Exchange Commission: USAID in Washington and their regional office in Botswana have been supporting the capacity building of these three institutions. The Energy Regulation Board has received the most support from USAID in the form of expert advice and training courses.

Swedish International Development Agency (SIDA)

Although SIDA are a relatively small donor they have an active private sector development programme. SIDA have extensive micro-finance experience in Zambia and as such have been funding a local micro-finance institution (PRIDE) and the Association of Micro-

Finance Institutions. Most recently SIDA have agreed to support the Bank of Zambia research and develop a regulatory framework for micro-finance. The Bank of Zambia has circulated draft legislation and is currently consulting with the relevant stakeholders.

SIDA have also agreed to fund an ILO Business Development Services project in Zambia which seeks to use the market development approach to BDS.

Within private sector development, SIDA are moving towards a macro approach to programming. They are seeking to become more involved at the enabling environment level specifically looking at trade, investment as well as capital markets.

European Union

The European Development Fund (EDF) has been funding the *Private Sector Development Programme (PSDP)* since 1999 and it is expected to run until 2004. The PSDP has six different components, these include:

5. Non-financial support to micro entrepreneurs and infrastructure
6. Loan facility for SME's in agro-processing, manufacturing, tourism and mine supply (managed by Grant Thornton)
7. Direct technical assistance to SME's (managed by The Centre for the Development of Enterprises, an institution of the ACP Group of States)
8. Capacity building with service providers to small and medium and micro-enterprises
9. Foreign Investment Promotion to Zambian Business (PSDP supports the Zambian Investment Centre)
10. Trade and Enterprise Support Facility (managed by Grant Thornton)

While the PSDP may not be directly involved in regulatory best practise promotion or regulatory impact assessments they have partnered with Zamtie on several of their activities.

Following the development of a new EU Country Strategy Paper, the EDF is currently designing a large € 20 million project that will build and support private-public dialogue. It is expected that this project will look at improving the enabling environment for business and tackle such things as the regulatory framework.

PRIVATE SECTOR

Although the private sector in Zambia is relatively small there are dozens of associations and organisations representing their different interests. Many of these organisations are supported with donor money; this has effectively led to a disproportionate number of organisations. Recognising the ineffectiveness of a fractured private sector, new effort is be ing made to create a more powerful single voice for business. This effort has been spear-headed by Zamtie who have facilitated and fund the *Business Forum.*

Business Forum

Established in 2001, the Business Forum brings together six of the most significant private sector associations. These include the:

- Zambian Chamber of Commerce and Industry
- Zambian Association of Manufacturers
- Zambian National Farmers Union
- Tourism Council
- Chamber of Mines
- Zambian Chamber of Small and Medium Sized Businesses

The Business Forum has met with the President on several occasions and have demonstrated effective advocacy for an enabling environment for business. Last year the Government stated their intention to pass legislation that would require businesses use only Kwacha currency for all business transactions. This attempt to completely 'de-dollarise' the economy was viewed by the private sector as impractical. The Business Forum took the issue to the President and lobbied for no new regulation. Instead the Business Forum created a Voluntary Code of Conduct as a means of compliance through self regulation. The Business Forum pledged to Government that they would bring the private sector in-line with most of the Governments demands. The Government agreed and have withdrawn from passing any new laws further regulating business practises or re-introducing foreign exchange controls.

In the last meeting between the President and the Business Forum, the President proposed creating working groups with key Ministers and the Business Forum to review existing *labour legislation* and to discuss the *national debt*. The President has also indicated that he would like the Business Forum to meet with the Presidential Investment Advisory Council once established.

In addition to their current initiatives, the Business Forum has submitted a proposal to Government on a study that would investigate the *Improvement in Tax Procedures and Administration*. This proposal has subsequently been forwarded to the donors for funding considerations.

Overall, the Business Forum has established itself as a credible voice for private sector able to engage Government on regulatory issues.

OTHER RELEVANT PLAYERS

It is estimated that only 400,000 people out of a population of 10 million are formally employed. The public sector employs nearly 150,000 of the 400,000; leaving only a small unionised private sector labour force. The shrinking mining sector has also left the unions with fewer members, effectively reducing the labour movement's lobbying power. The most recent labour dispute has been between the Government and the public sector workers. As a result of a national budget overrun the Government are trying to renegotiate employee contracts. Following a three day strike the unions have had to back down and consider wage and benefit cuts. While the union movements in Zambia are still relevant they do not lead any significant policy debate.

Zambia's media is mostly owned and controlled by the Government; these include newspapers, radio and television. The only significant independent media is *The Post* newspaper. While politicians dominate the headlines, very little is reported on private sector and regulatory issues. For the most part, the Zambian public are not aware of regulatory issues or their relevance.

CONCLUSION

Over the past ten years Zambia has undergone significant economic reforms. Many within the international donor community and the private sector insist that more needs to be done to create a favourable enabling environment for business. At the same time, elements within Parliament and the public sector are becoming more sceptical of continued liberalisation, privatisation and foreign investment as previous efforts have not yielded the expected results. The public are generally less informed and as such have not participated in the regulatory debate.

The donors and particularly the IMF have significant leverage in driving the agenda forward and are supporting initiatives that encourage the development of better regulatory practises. While Zamtie and the Business Forum are the most significant initiatives their approach has been adhoc, taking on specific issues one at a time. The upcoming FIAS study on Administrative Barriers to Investment is a significant development. More important than the study's findings will be the Government's willingness and capacity to internalise recommendations. The CUTS initiative is also carrying out activities that are relevant to promoting regulatory best practises.

It will be important for the SBP-CBC programme to engage with existing initiatives as dialogue between relevant stakeholders has developed some momentum. Zambia could benefit from a new initiative that brought a more holistic and systematic approach to policy development and implementation. This could include Regulatory Impact Assessments that quantify the effects not only on private sector but also on Government and Zambia as a whole.

RESOURCE DOCUMENTS

1. List of Relevant Organisations and Individuals
2. Zambia Enabling Environment
3. Zambian Poverty Reduction Strategy Paper (PRSP) (2002-2004)
4. Zambian Investor Roadmap (FIAS)
5. FIAS Administrative Barriers Study: Term of Reference
6. FIAS Administrative Barriers Study: Update
7. Defining Drivers of Agricultural Policy
8. CUTS National Reference Group Meeting
9. Private Sector Development Programme Annual Report (2002)
10. EU Country Strategy Paper for Zambia
11. Business Forum meeting the President: Aide Memoire
12. Business Forum: Proposal for Improvement in Tax Procedures and Administration
13. Simpson, D. (2003) ‘Focus on Zambian investment obstacles’, Business Day, Johannesburg, 9 October