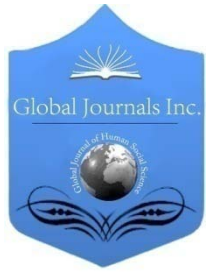
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The Transitory forms of Lesotho Customs Administration and Tax Revenue Collection Since the Post Independence Era Till the Early 2000s: Strategies, Organizational Structures, Trade Facilitation and Limitations

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Keywords: 1. customs administration/system, 2. lesotho, 3. tax revenue collection reforms, 4. trade, 5. free trade facilitation and limitations 6. colonial forms of taxation.

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Moses M. M. Daemane [α] & Keneuoe A. Mots'oene [σ]

Abstract- In a highly competitive global environment, customs administration plays a vital role in the growth of international trade and development of the globe by facilitating trade among countries. Its role is also essential in expediting the growth of revenue through imports and exports taxation. This requires efficient and effective customs systems and procedures that can significantly influence the economic competitiveness of a nation. Lesotho being a member of Southern African Customs Union (SACU) and World Trade Organization (WTO) has a remarkable history in Customs Administration ('CA'). Overtime CA has been a useful strategy of the government for revenue collection and trade facilitation. The country has also undergone social, economic as well as political transformations which have brought significant changes that affected the revenue base and brought a mismatch between the revenue and expenditure. The continuous decline of the customs revenue accompanied by drawbacks in tax collection structures prompted the government to take drastic measures of reforming the then existing structures of customs revenue and tax collection. This was also done with a view to improve Lesotho's position in the SACU arrangement.

This paper then discusses two main aspects: first, CA structures, systems and strategies that have been in place overtime in Lesotho since the last 40 years of independence and beyond, secondly, CA as a strategy to enhance international trade and tax revenue collection in the country. The gist of analysis is on CA and tax revenue collection reforms and their impacts on trade, treating former reforms as part one and recent reforms as part two.

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Part One

I. Introduction

This paper aims at appraising the reforms of Customs Administration (CA) intertwined with the tax base of Lesotho, facilitation and impact of both CA and tax reforms on trade since the last 40 years of her independence, that is, partly beyond and till the early 2000s years. This is achieved by examining organizational structures and strategies that facilitate this administration and reforms. Some detailed Customs System analysis also poses a picture of the customs administration position in Lesotho. The paper's specific objective is thus; to evaluate in a concise manner Lesotho's colonial forms of taxation and customs administration within this introductory part, her post-independence forms of taxation also related to customs administration reforms and the effects of such reforms/strategies/programmes on the country's trade throughout the paper. The study's methodology encompasses desk study involving grey material analysis, interviews with relevant officials and regular cross-border traders/vendors and some participant observation.

In order to make this analytic paper logical and coherent, coverage of part one includes this introduction and the background whereby the country's situation is highlighted, colonial forms of taxation and customs administration, post-independence forms of taxation and customs administration reforms since Lesotho's independence and effects of such reforms on trade. The causes of changes to structures and strategies are debated as demerits of such approaches though their strengths are also considered. Part two heavily relies on the interviews and secondary data for self-acquaintance with the current or latest CA and tax revenue collection state particularly dealing with LRA but in the same analysis approach.

The study's scope is within the context of the fact that customs administration and tax base of Lesotho since her independence have been changing due to the weaknesses or failures realized in revenue collection strategies from the two (i.e. CA and tax base). The original purpose of taxation in Lesotho has been to raise money so as to finance public expenditure. Taxation is one of the main approaches adopted by the government in managing the national economy.

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Taxation may be used together with various monetary policies to further economic aims of the government such as full employment, manipulation of the balance of payments and reducing inflation (Pritchard and Murphy, 1988). The paper, further, assumes that Customs administration and tax revenue collection reforms ought to provide assistance in maintaining productivity and growth in a country and as an national exercise generate feedback enabling assessment of the degree of appropriateness of the country's trade and monetary policies and the nation's selected revenue collection strategy affordability and effectiveness in bringing development. This is a national exercise whose feedback enables planning, monitoring and evaluation of the progress of the country's economic-development. While at the paper's assumption, it is important to note that criteria for evaluating effectiveness of a tax system (and/or customs administration) includes its capacity to raise adequate government revenue and its impact on resources distribution for equity and the size of its administrative costs (Central Bank of Lesotho: 2004). The paper, indeed, believes that practical market operations or trade as influenced by customs administration and tax revenue collection reforms and strategies serve as one of the main ever lasting mechanisms of distributing resources, services and benefits or wealth either for worse or better in relation to an individual person's poverty level or country's economic-development.

Study's justification and significance are brought about by the fact that forms of taxation in Lesotho have been dynamic and resulted into a changing national tax base whose impacts analysis on national trade as one form of poverty alleviation strategy or development process may shed some light on our national economic-development progress, constraints, planning, monitoring and evaluation. Study's justification is also prompted by the incidence of the Government of Lesotho (GOL) finding it wise to change the forms of customs administration and tax base including customs and excise duties, sales and income tax, thereby formulating claimed to be better and efficient ways of collecting the customs and tax revenue while still maintaining the free trade within the Common Monetary Area (CMA) being treaty member states Namibia, Swaziland and Lesotho adopting the South African 'rand' currency as a common currency to all and the Southern African Customs Union (SACU) by removing tariffs and duties. SACU can be traced as far back as 1889 Customs Union Convention between the colony of the Cape of Good Hope and the Orange Free State, Lesotho joined in 1891, Botswana in 1893, Swaziland in 1904. In 1910 South Africa signed the Customs Union Agreement between the former British protectorates of Botswana, Lesotho and Swaziland, the agreement came into force on the 1st July, 1910. The SACU Agreement was concluded on 11th December 1969 and was put into force on the 1st March 1970, thereby replacing the 1910 Customs Union Agreement. Namibia became the fifth member of SACU in 1990. Furthermore, in 2003 the government of Lesotho lodged the project of Lesotho Revenue Authority (LRA) which according to the Act is to deal with Value Added Tax (VAT), sales tax, income tax and customs and excise duties in an efficient way of collecting tax in Lesotho.

Tax is a payment compulsorily collected from individuals or firms by central or local government. An economy cannot provide services to its residents unless it has source of revenue from which it can pay for the services provided. VAT is the amount that is added to the bills for services and purchases. Income tax is a tax charged on every one who earns income. Customs, on the other hand, is an authority or agency in a country responsible for collecting customs duties and for controlling the flow of people, animals and goods (including personal effects and hazardous items) in and out of the country. Depending on the local legislation and regulations, the import or export of some goods may be restricted or forbidden and the customs agency enforces such rules. Customs and Excise deals with the cross border tax on goods and services especially imported ones. Customs are duties paid to a nation's government on items that people bring in from another country. Each nation has its own regulations regarding the quantity and kinds of articles (quotas/tariffs/restrictions e.t.c) that may be imported.

In modern economies, taxes are the most important source of governmental revenue. They are compulsory levies that are regularly imposed and as a rule, designated for no special purpose, they are regarded as a contribution to the general revenue pool from which most government expenditures are financed. Taxes differ from other sources of revenues in that they are not paid in exchange for some thing specific. There is at least a general theoretical belief that taxes are collected for the sake of the welfare of the taxpayers as a whole. Taxes are considered to have at least these three functions:

1. Fiscal or budgetary: to cover government expenditures as are not financed from other sources.
2. Economic: to lessen inequalities in the distribution of income and wealth to the extent they are considered excessive and unjust.
3. Social: Aside from its above main function, taxation has many purposes. Certain consumption goods considered undesirable, such as alcoholic beverages and cigarettes may be taxed heavily on the grounds of national health (Student's guide, 1994).

Generally speaking there are two methods of imposing taxes known as direct and indirect tax. Indirect tax is levied on the sale of a good or service. This implies that real burden of such a tax does not fall on

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the person or a firm paying but can be passed onto a customer or a supplier. For example, excise duty is another form of indirect taxation whereby tax is levied upon a wide range of goods. Its development has been basically in two directions. The first has been the high rates imposed on a narrow range of goods such as tobacco, alcohol and fuel. The second has been the use of a general sales tax on all items sold. Indirect taxation, therefore, involves taxes which are not paid directly to the state by the person who ultimately bears the cost.

The direct tax is the tax paid directly to the state by the tax-payer. Land tax was the backbone of direct taxation for centuries but this became less satisfactory when wealth took different forms due to commercial development. At various times, tax was therefore applied to other objects of the wealthy such as servants and dogs. These taxes although not of much value in the long term, resulted in two developments:

1. They required some form of local inspection collection thus resulting in an administrative machine.
2. A relieving provision was created which limited the total tax payable by an individual to 10% of his income.

Through taxation and customs administration the government can also influence business activities. Tax concessions on the other hand have the effect of increasing the level of economic activities and are often used to attract investors into the country (Workorach, 1997). Efficient tax collection is very important as it is from such revenue that the great majority of a country's development programmes are achieved, Minister Timothy Thahane explains (2006:1).

II. The Problematic Lesotho's Customs Administration and Tax Reforms Overview

Looking at the colonial forms of taxation, the hut tax being one of them was paid on the number of huts and therefore principally on the number of wives as each hut usually symbolized a wife in those polygamous days. At times a number of cattle pans were used. The number of huts and cattle pans varied from year to year and it was difficult for the colonial administration to ascertain accuracy in taxing. One Pound was paid as the hut tax. The chiefs as tax collectors received a percentage of the hut tax and lower chiefs and headmen were, on the recommendation of the magistrates, paid for their assistance in collecting it, so at first sight it would seem to have been in their interest to have collected as much as possible. The tax issue became so serious that that in 1871, magistrates were instructed to refuse passes (necessary for Cape or Orange Free State travel) to anyone unable to produce a tax receipt unless guaranteed by his chief or headman to be in need of a pass to the Orange Free State to earn the tax money (Burman,1981).

The other form of tax was the poll tax which was paid by unmarried men who did not pay the hut tax. Poll tax was later changed into the European poll tax. The dog tax was paid at the administration offices also. M0.25 was paid for each dog. The income tax was charged on every migrant worker. As Basotho men migrated to work in the South African mines the government gained tax through them and from the civil servants.

The Report of the Residence Commissioner (1898/1899) mentions pithily the British policy towards the Basutoland Protectorate in a passage which may be summed thus: that though Lesotho was a granary of Southern Africa, it was even of greater industrially economic value to South Africa, by providing the latter with a massive labour reserve; that the Basotho should not be educated above labour. The important point to be noted from this report is that Basutoland/Lesotho was being structured into a labour reserve through colonial tax forms, while, on the other hand, South Africa was being turned into an industrial power in the sub-region. Even to date, the main form of trade of Lesotho with her neighbour RSA is migrant labour.

On the other hand, it may be acknowledged that Lesotho still benefited in a skewed manner from this relationship with South Africa. As Lesotho seemed to be a labour reserve for South Africa, with the full neglect of Britain to develop Lesotho because of the belief, among other reasons, that Lesotho shall, at some point be incorporated into South Africa, Lesotho still depended much on migrant labour remittances.

Pule and Thabane (2002: 217) also mention that,

> "The bulk of migrants worked on South African gold mines while the rest worked as far labourers, domestic workers, and industrial workers. In addition to providing cash income for numerous rural households and jobs for over one hundred Basotho, migration also provided revenue, in the form of deferred payment for the state."

However, still on the same level, Peterson (1991: 8) reminds that, although there were a few main sources of income in Lesotho, it should be noted that income earned from some of those sources was not taxed. Even though migrant workers' remittance was the main source of income in Lesotho, income from this source was not taxed. This is despite the fact that migrant mineworkers are properly recorded and are the largest potential for an enlarged taxation and increased income tax revenue. Income from this source is not taxed basically because the 1973 labour agreement between Lesotho and the Republic of South Africa did not allow mining industries in South Africa to deduct income tax from migrant mine workers on behalf of Lesotho government. Even in 1991 when a new labour

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agreement was completed, it became evident that the Republic of South Africa would not be in a position to withhold such taxes on mining companies in the near future.

The self-employed were, by then, not taxed basically because the main part of the self-employed were farmers practicing subsistence farming and the average household income in the agricultural sector was small. The aim was to attain self-sufficiency in food production hence income from agricultural activities was not taxed. Generally, taxation of small business enterprises was also very difficult to administer.

Tax reforms in Lesotho ('Basutoland'), during the colonial era may be perceived within the context of hut tax which was paid by every married man, land tax, basic tax which was paid by every old man, which ended in 1984, dog tax which was paid by everybody who had a dog though levies considered dog species, poll tax which was paid by every working man, personal income tax - the tax that was levied on the net asserts of individuals, not corporate bodies and corporate tax that was paid by the investors especially the multinational companies. All these taxes that were imposed during the colonial era had much adverse impact on the country of Lesotho. For instance, hut tax and basic tax had all the able bodied men finding themselves forced to go out to seek for the jobs, they particularly migrated to South African mines as cheap and exploited labour. This created social and family life disruption and transformed Lesotho into a migrant labour reserve dependent on vacillating unstable foreign employment market. As a result, there were constraints in agricultural production due to manpower shortage because only old people and children were left at home and these were not able to produce enough to gain even the surplus, hence partly, agriculture declined in the whole country of Lesotho. Moreover, trade declined as there was no surplus for export. Again, Lesotho was the major exporter of wool but at this time wool export declined as well and this was due to the fact that tax was even paid in the form of animals. Tax was mainly used for supporting colonial administration and other imperial objectives (Cox and Rose1986).

Levy on sand and stone was made on the 14th of October 1955. Before any sand or stone is removed from Basutoland, the person intending to remove such sand or stone was to pay to the district commissioner of the district from which the stones or sand is to be removed. The levy due under that proclamation was given a receipt, any person who removes sand or stone from Basutoland without having paid the levy on such sand or stone was guilty of offence and was liable upon conviction to a fine not exceeding twenty rand or in default of payment, to imprisonment for one month, any person so convicted was also required to pay the full amount of the levy due, in addition to any punishment awarded. Any levy due under this proclamation was to be a debt due to the tax to be Basutoland government, and may be sued for and recovered by the paramount chief by action in any competent court having jurisdiction (Thompson, 1960). The chiefs were responsible for collecting tax as the colonial government did not want to spend more on the colony. The aim behind imposing tax on the colony (Lesotho) was to promote migrant labour. There were newly established mines in South Africa and few machines were used for production so a lot of men were needed to provide labour. This was during the time of the introduction of cash economy.

During the colonial era, there was also what was known as the dual tax system, this type of taxation made a big distinction between Basotho and non Basotho of that time. It was tax paid due to a person's race and was only paid by all Basotho male residents and as thus also compelled most of Basotho men to work in the mines during colonialism (None, 1988). The colonial era taxes (1870 – 1910) were collected by the British Commissioner, Paramount Chiefs cooperatively. Basutoland Mounted Police as a colonial police were in charge of demanding tax receipts from male persons and brought non-tax payers to courts for fines and imprisoning sentences. Colonial tax reforms and their abolition were mainly due to resistances and up risings in the form of wars of resistance and political independence struggle.

After colonial taxation forms, that is in the post colonial era, considering that political independence was gained by Lesotho in 1966, basic tax began to be effectively officially collected in 1969 by the ministry of finance and commerce, accountant general and tax officers. The reason for change was that the chiefs were no longer involved in the collection of tax due to illiteracy as that made tax collection ineffective. The motive was now to finance local public expenditure which became so high and so much needed for developing a country that had for a long time been underdeveloped by colonial forms of taxation. Tax evasion also became rampant as enforcement became weaker. GOL then embarked on several taxes revenue collection reforms as follows:

The income tax bill was made in the 1980s. In arriving at the chargeable income of a person (M600.00), other than a company, who is a resident of Lesotho there has to be a deduction from the taxable income of that person. Income taxability considered abatements on the basis of the number of earner's dependents, marital status and minimum amount earned and other received incomes (National Accounts Reports: 1997).

The tax bill also introduced sales tax which is a tax on commodities and services at sale retail point, it was introduced in 1982. Firstly, there was sales tax of 15% in 1993 subsequently reduced to 10 %. The sales tax bill of 1995 provided for a bill to consolidate and

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amend the law relating to sales tax. The bill therefore is the revision of the sales tax act of 1982. It improves on the technical deficiencies in the law and provides for some expansion of sales tax base, particularly in relation to services. The bill retains the bound structure of the existing sales tax being a single stage tax imposed at the retail level. Under the Bill, sales tax is imposed on every taxable supply in Lesotho and on every import of goods or services, which is where CA comes in. The rules applicable to taxable supplies and imports are summarised separately below.

Under the 1982 Act, sales tax is theoretically payable on every sale of goods by any person including sales between private individuals. This means for example, that the sale of motor vehicles between private individuals is liable to sales tax and in this case the enforcement of the liability is supported by a prohibition in the 1982 Act against registration of the motor vehicle in the name of the purchaser until sales tax has been paid (1995 Government Gazette).

The problem is that sales tax affected trade badly as it discouraged production and manufacturing because people spend less while producers/firms produce accordingly, as a result volume of investment diminishes. It also has inflationary effect, for example when the cost of living raises, the employees press for pay increases, which leads to further price increases and costs, pushing inflation up.

In a business partnership, a partnership is not to be charged tax by its own name here in Lesotho, but all the amounts received thereby in any year of assessment are to be charged and on the partners in such a year. The chargeable income of a partner for any year of assessment is included on the amount equal to that proportion of the partnership (National Accounts Reports, 1997).

Indeed, income tax rates were effectively lowered for the 1981and 1982 financial year. The reasons for this are not entirely clear but because the income tax, despite attempts to strengthen its administration, is to a large extent collected only on salaries and wages as the government is by far the largest employer, it is reasonable to interpret the change as a substitute for an increase in government salary scales. At the levels of professional employment, the government experiences difficulty in attracting and retaining personnel, particularly those of ability because there are better sectors elsewhere in Southern Africa for others. This difficulty is exacerbated by political dissension within Lesotho. It is often alleged that opposition to the government is quite widespread among professional and technical cadres in the civil service and the education establishments. The government is, however, reluctant to raise salary and wage scales to levels that would retain adequate numbers of personnel, including those not well disposed toward it, partly for budgetary reasons and partly because a wage increase would make more pronounced the income inequalities among those employed as well as between the employed and those unemployed. A wage increase would also exacerbate the wage restraint problem in the private sector, which is essential to maintain competitiveness with establishments in the RSA. Nevertheless, in 1984 a commission reviewed Civil Service salaries, with instructions to consider the importance of managerial, professional, and scales were raised in early 1985.

While taxes finance the activities of the government and are therefore used to finance the public expenditure, through taxes the government forcibly takes part of the money from the private sector which could have been used for other private purposes. When paying tax, citizens cede some buying powers, some control over resources, some means of increasing their satisfaction through the market transactions. A levying of a new tax or increasing an existing one means a decrease in disposable income while a reduction in the tax rate or an abolition of an existing tax increases disposable income of the tax payers.

Indirect taxation does offer some scope of raising revenue. Lesotho has managed to use some specific levies on particular industries (for instance, tourism) despite the Customs Union. In other instances, the most notable being alcoholic beverages, the profits of state monopolies have been used as a substitute for indirect taxation. The most interesting case, however, is that one of general sales tax (GST). South Africa introduced a GST, initially at five percent, collected at retail level, at the end of the 1970s. This general sales tax, as opposed to specific sales duties, was not subject to Customs Union provisions. Such a tax was a powerful potential source of revenue for Lesotho, and in late 1982 Lesotho also introduced a GST.

According to James (2002) the Lesotho GST was initially at five percent and collected at retail level. Unsurprisingly, early reports suggested considerable collection difficulties and confusions, since in principle all traders, of whatever size, literacy, and accounting ability, were subject to the tax. It appears that by replicating precisely the South African tax, presumably there economizing on analytic, decision-making, and planning capabilities in government, Lesotho missed an opportunity to change the tax structure in a way that would have been easier to administer and better suited to the promotion of development. These ends could have been achieved by making Lesotho's GST collectable at the manufacturer or importer level instead of retail level, charging a higher rate, but exempting for administrative reasons manufacturers with turnover below a certain volume and also exempting exports. Such structure would appear consistent with the Customs Union, but would have substantial effective protection to small domestic manufacturers. In 1984, the

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GST rate rose to six percent, and government was considering higher rates on motor vehicles and tobacco.

Exercise duties, Customs duties and Advalorem duties which were used just to restrict certain goods into Lesotho, were all put in place with the aim of increasing more revenue. Again, in Lesotho, there was personal income tax, company tax and these were aimed at collecting more revenue as well in order to finance public expenditure and reduce financial imbalances. General sales tax was due to the Act No 8 of 1982 for additional domestic revenue so as to reduce expenditures.

In an attempt to increase tax revenue further, particularly income tax revenue from migrant mineworkers, in 1991, GOL introduced a levy of M100 per contract from Basotho mineworkers which was payable when the contract was signed. The new levy was estimated to raise government revenue by M6 million or about 0.22% of GNP.

In 1990, the other main transformations were done with a view to collecting as much revenue as possible and to make a reduction in tax evasion and avoidance and to abolish abatements amalgamating to dependents. In addition, it was to terminate medical allowance regarded to be burdensome, inefficient and not directly profitable to GOL, another improvement that was achieved in 1991 was to simplify income tax system through reducing too many numbers of tax brackets. In April, 1992, there was reduction in government compulsory savings from 10% of gross salary to 5%. This change increased taxable income quite significantly. The overall effect was the reduction of the income tax rate by two percent (on average) from 35% to 33%. Rates had also been reduced for the last too high income groups and no reductions had been made for low income groups (Lephoto, 2004).

Efficient and effective tax revenue collection and customs administration still lacked as fiscal or budgetary purposes. Covering GOL's expenditures was still not sufficiently met. Economically, inequalities in the distribution of income and wealth were still excessive and unjust. There was also a need to safeguard through taxation thriving of local producing companies against other multinational companies or heavily subsidized RSA's companies. Only that such sales taxes and restrictions created monopsonic national companies in beverages and milling companies in trade.

As is the case in most developing countries, the main objective of the income tax in Lesotho was to collect more revenue in order to finance public expenditure and to reduce financial imbalances in the economy. It is desired that revenue should grow gradually in relation to gross national product. It should be noted, however, that one of the most important constraints limiting the choice of taxes and the effective rate at which a particular tax is collected in Lesotho, is administrative capacity of tax collection and collection of income tax is no exception to this and which prompted the formation of the Lesotho Revenue Authority. The problem of declining customs revenue and weaknesses in tax collection structures during the post-independence era thus also induced GOL to review tax structure and administration. The new Lesotho Revenue Authority (LRA) was thus launched in January 2003. The Authority replaced three revenue departments (Customs and Excise, Income Tax and Sales Tax) which functioned within the civil service. The primary functions of Customs and Excise Department were to gather imports and exports data and enforce restrictions. The import data was used to establish Lesotho's apportion in the SACU revenue pool shared by Botswana, Namibia, South Africa and Swaziland. The Income Tax Department was responsible for collecting personal income tax, company taxes, withholding tax, fringe benefits tax and the gaming levy. The Sales Tax Department dealt with collection of sales tax at five main border posts and from registered vendors. The problem is that the structure or the set-up of the three departments constrained co-ordination, created bureaucratic red tape and was thus administratively burdensome and lacked taxpayers' audits and law enforcement on tax evaders.

Inefficient customs and tax revenue collection has contributed to making Lesotho not an exception to many developing countries experiencing a series of socio-economic problems. These include high illiteracy, mortality and unemployment rates, low agricultural productivity, poor infrastructure and poor communication facilities. Socially, the life of people has been worsening because of poor standard of living where lack of welfare facilities has been a serious constraint. There has been lack of infrastructure such as roads and poor communication facilities in some villages particularly in the rural area. In addition, there has been no provision of clean water in many parts of the country, which resulted in reported outbreaks of diseases such as cholera and typhoid in some parts of the country.

Economically, Lesotho being a land-locked country by the Republic of South Africa (RSA), relies on the economy of RSA, as its currency "loti" is also pegged to "RSA rand" with the ratio of 1:1. The exchange rate of US $: M is currently over 6.0. The country has been deteriorating due to huge losses of cash as a result of poor accounting systems and enforcement opening up loopholes to corruption in the administration of government funds. The losses grew from M1, 690,928.60 in 1981/82 to M1, 748,696.56 in 1990/91 (Auditor General's Report: 1991), there has been a growth in losses of 9.7% over a ten-year period. There has also been a high and growing fiscal deficit, which grew from 4% of GDP, 2 % of GNP in 1984/85 to 19.5% of GDP, 10.3 % of GNP in 1987/88 (Ministry of Finance Report: 1996). Currently the nominal GDP has

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grown from M9 million in 2005 to M10 million in 2006 while real GDP has grown negligibly from 3.4% in 2005 to 3.5% in 2006 (Ministry of Finance Fiscal Analysis Report: 2006). Custom Revenue grew from M1, 126 million in 2000/2001 to M1, 438 million in 2001/2002, an increase of 27.7% while in 2002/2003 it fell to M1, 427, a decline of 0.75%. In 2003/2004, there was a further decline to M1, 421.6. There was a remarkable increase in 2004/2005, where customs revenue increased to M2, 012.4 and M2, 067.1 in 2004/2005 (Ibid).

The government revenue has not been able to match the desired level of public expenditure as the country's taxable capacity is weak. Majority of the population are in the low income stratum while on the other hand there is an increasing rate of unemployment resulting from retrenchment in both the public service due to the lending conditionality of IMF/World Bank requiring labour downsizing and privatization and from the mining sector in RSA where three-quarters of the country's male labour force has been employed for the past decades, most of them residing in the rural parts of the country where land is communally owned and under-producing.

Considerable pressure is put on the government of Lesotho as a result of a large number of Basotho men who migrated to South Africa earlier in search of jobs but have now returned home in substantial numbers. The government is forced to expand some of its services with the objective of providing employment for its citizens since there are a few employment opportunities, as there are minimal resources and lack of developed private sector.

There is also an increasing realization all over the developing world that expanding the base for trade facilitation and revenue collection can accelerate development process in these countries since many other efforts have failed. This is why the government took an initiative to establish the Lesotho Revenue Authority (LRA), so as to accelerate growth and development. It is the intention of government to invest in this organization, which it is hoped, will generate millions of revenue from customs administration.

Though GOL has identified and established an autonomous national revenue authority, LRA, as the best way to improve revenue collection and tax administration, this Authority is said to have relatively improved revenue administration through enhanced autonomy, acquisition of skilled staff, increased integrity and effective use of automated systems but greatly at the expense of loss of customer welfare since VAT shifts more of taxation levels onto the customer. Furthermore, use of automated systems is quite greatly lacking indeed, the privacy invasive and intrusive practices of physical inspections and hands-on manual searching on customers' goods in different containers has reduced personal welfare and dignity at the borders. This usually creates long unbearable inefficient queues. Physical searching also has an element of risk-exposure to custom officials as some substances are harmful and/or fragile. Lack of automated equipment definitely allows for inaccurate/little data and revenue collection as there is no adequate way of verifying heavily loaded sometimes sealed big trucks. There is also too much paper work involved and difficult for customers to comprehend.

The LRA has introduced private sector-style management practices in administrating revenue, some aspects of which include competitive staff remuneration, securing of quality staff and introduction of a code of conduct guarding against corruption. Only that rent-seeking is still said to be a problem by border customers. Tiresome and delaying bureaucratic procedures are also worse to them in that LRA works closely with South African Revenue Service (SARS) in collection of Value Added Tax (VAT). Revenue authority is paid a commission based on revenue collected but this has resulted into sort of severely self-imposing aggressive over ambitious over-valuing of goods' value by LRA for VAT collection from the border customers, at times against and contrary to authentic documents of procurement. This has greatly stifled the progress of the private sector. A number of businesses have closed down due to the launching of LRA characterized by lacking an objective of helping such a local private sector to develop further except to radically sap it down through immense taxation and custom duties indifferent of ease tax payment terms enforceable. This has created visible unemployment as the private sector is pressed down and reduced. The country still has more than 40% unemployment rate as ever since but against a bulging national customs and tax purse lacking visible investment multiplier effect.

III. The Limitations of Lesotho's Conventions on Customs Administration and Tax Revenue Collection

On the somewhat different level, Lesotho's trade was, by virtue of 1910 Customs Union Agreement, intractably tied to that of South Africa. The heavy reliance of Lesotho on remittances of its nationals working largely in the mines of South Africa and on revenue from the Customs Union Agreement is the legacy of the historical colonial experience. There is a belief that today Lesotho relies on workers' remittances and customs revenue for some 60% or so of its total government revenue. Then, all it meant is that since both sources were from South Africa, Lesotho was heavily dependent on that country, from which many of its imports came. From a socio-political view, this gave South Africa a chance to impose leverages on Lesotho on non-compliance on some of its demands. South Africa would delay, without reason, customs union

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payments due to Lesotho. Given the importance of this money to government revenue, such action on the part of South Africa always precipitated short-term crises for the Lesotho government (see Pule and Thabane, 2002).

Lesotho also experienced heavy revenue burdens imposed by the customs Union Agreement of 1969. This happened by virtue of articles 4, 8 and 10 of the Customs Union Agreement which established uniformity throughout the area in terms of customs and sales duties on imported goods, imported from outside the area; excise and sales duties of goods produced in the common Customs Area; and laws relating to customs and excise duties, South Africa being appointed the pacesetter. That is, Lesotho and other countries to the customs union have to adopt and follow any changes made by South Africa in respect of the above three issues. Now, it is no secret that because of its international isolation, South African tariff system is primarily designed as a protective device and as a result South African prices are very high by world standards. Since Lesotho's overwhelming bulk of its imports are from South Africa, then therefore, as modern studies indicate, Lesotho pays relatively more than it gets by way of customs revenues. This heavy non-discretionary tax burden implicit in the customs revenue arrangements, therefore, to some extend limit the potential for any significant increase in Lesotho's domestically collected revenue which thing can only put more strain on the economy. It is for this reason and many others that, while development in Lesotho has been rather slow, it has, however, been a difficult task to decide how and where to raise taxes without negating social justice or rather equity and development, especially through the use of tax incentives.

The text of an agreement concluded between the governments of Republic of South Africa, the Republic of Botswana, the Kingdom of Lesotho and the Kingdom of Swaziland, in terms of section 51 of the Customs and Excise Act, number 91 of 1964, as amended, and the text of a memorandum of understanding recording additional understandings on which agreement has been reached among the four governments on how to administrate customs duties produced what was known as SACU. As already indicated the customs union arrangements, which have been in operation between these four countries since 1910, were concluded on 11 December 1969 and came into operation on 1 March 1970, with Namibia joining later.

SACU's organization is as follows;

a) The council of ministers

It is a supreme decision making authority on SACU matters. It is responsible for the overall policy direction and functioning of SACU institutions including the formulation of policy mandates, procedures and guidelines for SACU institutions overseeing the implementation of the policies of SACU and approving customs tariffs rebate, refunds or drawbacks and trade remedies. The council is also responsible for the appointment of the Executive Secretariat, the Tariff Board and the Tribunal. The council consists of at least one minister from each member state and meets at least once in a year's quarter, unless agreed otherwise. It is chaired in turn by each member state for one year.

b) The Commission

It is responsible for the implementation of the agreement; overseeing the management of the common revenue pool in accordance with the policy guidelines decided by the council and supervising the work of the Secretariat. The Commission consists of the senior officials from each member states and it meets at least once a quarter or at the request of a member state. Its chair person is appointed by the member state chairing the Council.

c) The Secretariat

It is responsible for the day to day administration of the agreement; coordinating and monitoring the implementation of the decisions of the Council and the commission; arranging meetings, disseminating information and keeping minutes of meetings of SACU institutions, assisting in the harmonization of national policies and strategies of member states in so as they can relate to SACU; keeping records of all transactions of into and out of the custom revenue pool; and assisting in the negotiation of trade agreements with third parties. It is headed by the Executive Secretary, citizens of member states and its staff is determined by the Commission. It is based in Windhoek, Namibia where the head quarters of SACU will be established.

d) The Tribunal

It adjudicates on any issues concerning the application or the interpretation of agreement or any dispute arising there under at the request of the Council. The Tribunal also plays an advisory role on any issue referred to it by the Council. The determination of the Tribunal will is final and binding. The parties to the dispute are to choose the members of the Tribunal from amongst a pool of names approved by the Council and kept by the Secretariat. The Tribunal is composed of three members, except otherwise determined by the Council and decides the majority vote. It is to be assisted by the Secretariat in its work. The Tribunal will determine its own rules of procedures.

e) Commission Revenue pool and Sharing Formula

Article 32 to 37 and Annex A of the 2002 SACU agreement, refer to a new common revenue pool and sharing formula. Article 32 stipulates that all customs, exercise and additional duties collected in the common customs area are paid into the common revenue pool, within three months of the end of each quarter, of

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financial year (commencing on 1 April). South Africa manages this pool (World Trade Organization, 2003).

There was an Act No 91 of 1964 which was amended by South Africa to goods entering customs area from outside SACU. However, the procedures were not honored on the borders by the member states. Section 46 of the same Act, good is regarded to have been produced in a certain country if at least 25% of the production cost being material used and labour performed is from that country and if the last process of goods took place in there. Due to all these, came another Act in 2002 in Article 23 agreement calling for the harmonization of trade of SACU member states to facilitate the cross border movement of goods both within the Customs Union and with the rest of the world to foster economic development.

There has been the Act of 1969 as well which took on from the 1910 agreement. This Act aimed at creating customs union, economic development of the customs union as a whole, in particular of the less advanced members like Lesotho, Botswana and Swaziland and diversifying their economies even to share equitably the benefits among the members. Further, there was a new competition Act enacted in 1998 to further address the imbalances in the levels of concentration present in the economy, anti-competitive business practices. Since SACU last Trade Policy Review (TRW) in 1998, five members have continued their tax incentives for household saving and borrowing (Central Bank of Lesotho, 2001)

Furthermore, Article 2 of Interchange of Domestic Products states that except as elsewhere provided herein a contracting party shall not impose any duties on goods which are imported from outside the common customs area on importation of such goods from the area of any other contracting party. This Article restricts the members of the SACU, even though they could find better market outside the SACU, they should abide by this agreement and this affects the macroeconomics of the member countries as now Lesotho is affected, it restricts customs revenue.

Nonetheless, Lesotho's participation in SACU is still beneficial. Unlike free trade agreement skewedly distributing economic benefits and growth among member countries, a customs union does not require costly rules of origin among members, as all products entering the customs union are subject to Common External Tariff (CET) and other taxes and charges collected by customs. SACU offers this advantage to Lesotho with one caveat as the rules of origin requirement is maintained on some electronic and leather products.

Moreover, customs union offers the opportunity to completely remove border formalities. This significantly reduces transaction costs, as inefficient customs clearance procedures can often be more costly than tariffs. However, Lesotho maintains economic order controls for two reasons; its tax rates differ from South Africa's and its status as a less developed country obliges it to trace origins of inputs in order to enjoy preferential access in international markets.

In overall, however, Lesotho's participation in SACU appears to have had a positive impact on the country's economic development although the CET is not close to the first best option of free trade, average tariffs have fallen reducing their distortionary impact on the patterns of domestic production and consumption. SACU arrangement is such that tariffs protection for small domestic producers is removed, infant economy against globally competitive producers will be overwhelmed and closed out. Lesotho's membership in SACU makes it part of a larger global market in which only the already developed economies can effectively compete and thrive perpetuating poverty and development gap through revenue/capital flight in less developed economies. Maximizing SACU arrangements in a sustainable self-reliant manner seems to be quite a daunting challenge as effects of globalization on trade are deemed to be new imperialism. Markets are open for the developed world and very limited for the less developed, unbalanced and unfair global trade is given a conducive common customs area.

As expansion in Foreign Development Investment (FDI) inflows began in the 1990s, in 1990, Lesotho' stock of FDI was the lowest among SACU member countries, at $155 million. By 2000, the value of FDI stock in Lesotho was higher than all SACU countries except South Africa. Lesotho's FDI stock on a per capita basis was higher than South Africa's despite the huge disparity in Gross Domestic Product (GDP) per capita between the two countries. This implied more GDP and less GNP, which is more wealth shifting into foreign hands and more local poverty.

Lesotho may be argued to have done quite well when compared with non-SACU Sub-Saharan African Countries. The total stock of FDI in Lesotho in 2000, estimated by NCTAD (WIR2001) at $2.519 million, was the fifth highest in Sub-Saharan Africa. Lesotho is also one of the leaders in Sub-Saharan Africa in terms of the share of FDI in gross fixed capital formation. Locally, this scenario is practically marred by extreme female labour exploitation in the textile industry sector in the foreign hands. That is Lesotho cheaply traded and exploited her labour in free international market within cyclic destitution increasing foreign revenue. Such labour is characterized by none assets accumulation/saving, perpetual indebtedness, induced ill health from hazardous working conditions and destitution.

Nevertheless, despite the fact that Lesotho experienced generally modest economic growth since 1997, its development is in the hands of South Africa because it forms part of Common Monetary Area (CMA) in which 1 loti (M1.00) is pegged to South African rand-currency, hence, Lesotho and others (Namibia and

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Swaziland) follow to a great extent South Africa's monitory and exchange rate policies. In cases where Rand devaluates in the foreign market Loti is also affected likewise. This implies that when South African economic growth declines, Lesotho economy also gets affected. The usage of South African currency within Lesotho was formalized by Rand Monetary Area Agreement between Lesotho, Swaziland and South Africa in 1974, later including Namibia. Under the agreement, Lesotho formalized the use of South African currency as a legal tender in Lesotho, in addition required the following conditions: (1) the right to receive the monetary compensation for such use, based on the application of interest rates on South African government securities to an estimate of the rand currency circulation in Lesotho.

The issue is its own currency, a Loti at par with Rand backed at 100 percent by special rand deposit with the South African Reserve Bank on which interest is received. Furthermore, an agreement formalized Lesotho to access the foreign exchange and specified that the three countries' main reserves of foreign currencies would all be held by South African and that essentially similar foreign exchange controls would be imposed in Lesotho as in the Republic of South Africa. However Lesotho is permitted the guarantee to access foreign exchange for the purpose of retaining profits by foreign investors.

This relative harmonization of policies has resulted in comparables of inflation (around 7% per year) throughout SACU. However, the lack of formal harmonization of fiscal policies leaves room for expenditure-induced public deficit. The country in this common area wanting to trade with the other members is compelled to use the same currency usually a US dollar. Sometimes it becomes unfair for a country to buy a dollar even if it can use its own currency if its currency is stronger than that of the country it wants to trade with. This is a trade loss in exchange rate. Also being the member of SACU Lesotho is unable to trade with other countries because the policies of SACU compel the member countries to impose high custom duties on the goods imported from the countries outside the union. In addition the customs duties that are put into SACU revenue pool seem to be of least appreciating value because these custom duties cannot be invested somewhere, that is they come as they were of original value. This implies that the country gets its share without any interest. SACU countries have been generally slow in implementing structural reforms whose effects have lacked 'human face' and as thus deepened poverty even further.

SACU is controlled by World Custom Organization (WCO) for running the world trade. The WCO is an organization under World Trade Organization (WTO). It helps the SACU member countries in tackling problems of tax evasion like under valuation of the goods imported. It uses the following methods; transaction value methods, transaction value of identical goods, as well as transaction value of similar goods. This model as already indicated has led to customer welfare loss in that going market prices of sale are subjected to an inflexible non-negotiable market standardized price values robbing entrepreneurs through custom duties even against authentic invoices entitling them lesser cost in terms of duties/levies. WTO on requiring removal of tariff barriers, gives the preferential treatment to developed countries, promoting free trade/expanded market for them only. It also gives the unenforceable condition like input of a country on a product should be 35%.

John (2002) indicates that the customs union agreement on the other hand gives Lesotho substantially more revenue than it could raise if it was to leave the union but domestic final prices are kept at the same level. As it seems, Lesotho integration with South African economy, the customs union provides short-term benefits, namely government's revenue and availability of full range of manufactures. However, the cost of these benefits is a restriction of long-term development of Lesotho's domestic economies because the customs union ensures South African goods access to Lesotho markets but does nothing to enhance Lesotho's competitiveness as a production side or practical terms to ensure Lesotho to South African market. Lesotho as a peripheral country with poor infrastructure close to highly developed industrial and commercial centres in South Africa is not a low cost area in the region for most of production. Access to South Africa is dependent on South Africa's regulations despite the restrictions of Customs Union Agreement because South Africa has at its disposal many non-tariff barriers involving administrative discretion and controls a highly regulated transport system thereby limiting in flow of Lesotho commodities. Accessing South African markets can be enormously disruptive deliberately or incidentally by official delays in border crossing as it once occurred in 1983 where every piece/item of the bulk exported was sluggishly and thoroughly inspected. The long exposure of Basotho to South African consumer goods, modes of operation and relative prices may also have induced attitudes that are inimical to appropriate forms of development within Lesotho.

The earliest major formalization of institutional arrangements with South Africa was the Labour Agreement, concluded in 1973. This agreement sets out the conditions under which Lesotho citizens may be employed in South Africa and under which South African employers may recruit in Lesotho. It gives Lesotho very few advantages. The major ones are the provision for a Labour Representative, an official of the Lesotho government resident in South Africa who, with staff members, is permitted to perform various administrative and welfare functions for Lesotho citizens in South

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Africa, provisions requiring South African employers of Lesotho citizens to comply with any deferred pay or provided fund wage deduction clauses in contracts of employment (a provident fund system for migrants does not exit but has been discussed for years and is generally believed to be potentially a very useful innovation), a provision not requiring but pledging cooperation by the South African authorities to ensure that employers deduct any relevant taxes from migrants' wages on behalf of the Lesotho government (however, migrant earnings are exempted from Lesotho income tax) and an exemption from the confinement of Lesotho citizens to employment under contract for not more than two years at a time, for those who can prove that they were legally employed in South Africa before July 1, 1963, provided there is no indigenous worker to replace them.

The constraints imposed by relationships with South Africa remain immense and some aspects are still not wholly predictable. One problem surrounds transportation and transit rights. Lesotho's position is that international law gives it, a land-locked state, unrestricted transit rights to the outside world. South Africa , however, has always held that it reserves the right to inspect cargoes and passengers in transit to Lesotho and to prevent in its national interest which it does on occasion, recently most notably with respect to defense equipment.

Bardill (2002:77) shows that apart from external constraints imposed by being surrounded by and dependent on South Africa, the government in Lesotho also faces major domestic constraints. Lesotho's current revenue structure is unusual because of the operations of the Customs Union, which provides the bulk of revenue but removes from Lesotho's discretion sales on specific goods and all customs and excise duties. Direct taxation has had three major components: basic tax, a flat-rate tax on all adult males that was abolished in 1984; personal income tax, similar to British and South African models; and corporate taxes, subject to many provisions for reduction as investment incentives. One anomaly has already been mentioned: No attempt is being made to collect income tax from migrants, although now all mine workers earn incomes high enough to be taxed if the income was earned within Lesotho. Presumably the reason is political because given the provisions of Labour Agreement; the administrative costs of collection could be mainly shifted to the South African mining companies. However, this may change in future in response to the 1984 South African decision to subject migrants to a unified income tax.

Free trade as Lesotho's pursued economic policy with its regional partners and common external trade policies, in the context of the SACU and SADC and trade partnerships including the European Union and the United States will ultimately compress customs revenues. This will reduce her capacity to finance economic-development and facilitate national trade through developing the local private sector.

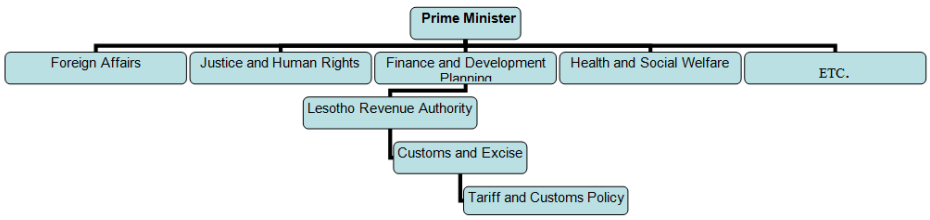
In conclusion, however, Lesotho's low income economy is with very close financial and commercial ties to South Africa. It is a member of the Southern African customs Union and the Common Monetary Area (CMA) and its currency-the loti is pegged at par to the rand. So there are no exchange controls between CMA countries. And trade among SACU countries is free of tariffs and duties. Trade with South Africa Accounts for about two-thirds of Lesotho external trade and foreign direct investment from South Africa is about one fifth of Lesotho's GDP. Workers' remittances from South Africa and receipts of Lesotho's share of SACU revenue constitute a significant part of national income. The presence of different tax rates and customs procedures across customs union members, when combined with porous physical borders between the countries, creates incentives for smuggling, even as it hinders the flow of legitimate trade and investment. The 1998 WTO review of SACU trade regime repeatedly mentioned that Lesotho faces problems with smuggling and tax evasion.

Part Two

IV. Customs Administration in the Latest Perspective: Organizational Structure

Customs division is a component of the Lesotho Revenue Authority which is under the Ministry of Finance and Development Planning (as indicated by the organogram below).

Figure 1 : Lesotho National Customs Administration Organization

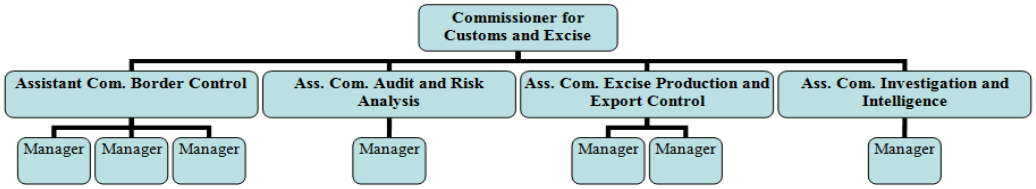


(LRA Interview, May, 2006)

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The Customs administration involves the Headquarters which is the main administrator and the 11 land border posts (Maseru, Maputsoe, Caledon, Sani Top, Qacha's nek, Ramats'eliso, Tele, Peka, Makhaleng, Sephapo, and Van Rooyen's) and 4 official ports of entry (Railway Station, State Warehouse, Parcel Post and Airport) under the supervision of Customs Managers, Senior Customs Officers and Customs Officers. The Lesotho Custom Administration is indicated by the chart below:

Figure 2 : Internal Structure of Lesotho Customs Administration



(LRA Interview, May, 2006)

The Customs Headquarters comprises of the Commissioner for Customs and Excise to the level of Managers and deals with policy formulation, administration of the entire division with the exception of the Managers responsible for border control, who are based at the two biggest border posts – Maseru bridge and Maputsoe bridge. Other border posts are managed by one manager who does the administration directly from the Headquaters, where he/she is based. He/she manages with the assistance of the Officers in charge of the border posts (Supervisors) being Senior Customs Officers whose subordinates are the Customs officers followed by the Assistant Customs officers.

Customs Core Functions, Responsibility and Priorities

Functions

- To control movement of imports and exports.
- To facilitate trade.
- To collect legitimate Customs and Excise revenue and VAT from imports of goods and services and statistical information.

Responsibilities

- Promote voluntary compliance with tax laws.
- Improve the standards of services given to tax payers.
- Counteract tax frauds and other forms of evasion.
- Administrate and enforce the laws concerning prohibition and restrictions of imports and exports.
- Advise the Minister on matters of revenue policy administration and revenue collection.

Priorities

- Control movements of exports and imports.
- Collect customs and other duties due to the government.
- Provide quality and responsive services at all times.

Resources

Budget

- Customs has its own budget.
- Customs Administration has a budgetary responsibility and plan.

V. Recruitment/Appointment/ Employment Conditions for customs Employees

The commissioner together with the Resourcing Unit decide on terms of employment depending on the type of work to be done, that is, contract and non contract employment. Both internal and external recruitment strategies are used.

a) *Internal Recruitment Strategy*

- Advertisements are made to fill vacancies internally by Resourcing Unit which runs for maximum of two (2) weeks.
- Human Resource(HR) must notify the Commissioner of Customs of any changes regarding the re-deployment of employees between the operating divisions.
- HR must notify Finance Division of any changes regarding status and salary grades of employees to effect necessary adjustments on remuneration.

b) *External Recruitment*

The Resourcing and Development Section is responsibility for maintaining effective recruiting contacts. The following sources/methods are used where necessary and only one method is used at one time:

- Newspaper/Radio adverts/ internet – takes 3 weeks
- Educational Institutions – LRA liaise with the Institutions
- Head-hunting/ Referrals
- Walk ins

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- Consultants

There is no restriction excluding applicants for employment who have a family member working for the Authority. Employees also apply for vacancies higher than their positions, to be promoted.

c) *Both Internal and External Development Programmes are Available For Customs Officials*

- Resourcing and Development Section facilitate the designing and development of internal programmes based on the identified needs.
- Externally designed programmes are reviewed by the Resourcing and Development Section in conjunction with the Training Coordinators and Technical Trainers on their appropriateness to the Authority' specified needs before adoption.

d) *There is Custom Institute*

Customs Training Centre

Manager Resource & Training

5 Permanent Lecturers form Training Centre

3 Coordinators (Customs, VAT, Income)

Several Resource Persons in each Division with special fields e.g. Specialist in Valuation, border procedure, etc)

e) *Legal Issues*

- There is a single consolidated code under which Customs Administration is conducted which is Customs and Excise Act No.10 of 1982.which is used together with the following laws and regulations:
- Customs and Excise rules and regulations of 1984
- Value added tax 2001
- Liquor Commission Order of 1986
- Liquor Licensing Act of 1998
- Copy Right Act 1989

The current Customs Code gives powers to carry out all controls necessary to ensure compliance with the laws and regulations which they are responsible for enforcing even though it is outdated and needs to be amended.

f) *Customs System*

- Beside Customs duties, Customs collects Excise duties, Value Added Tax and Advalorem tax.
- Customs Revenue represents 50% of the total Government revenue.
- Customs have shared functions with Government ministries, for instance, Ministries of Trade and Agriculture which issue trade permits to be used by importers, which have to be produced for customs clearance on restricted goods. The Ministry of Trade processes certificates of origin which are verified by customs before issuing VISA and doing consignment inspections and document processes.
- Customs Lesotho does not have Pre-shipment inspection (PSI).
- (Yes,) Custom administration applies risk analysis management principles. The Risk and Audit Analysis Unit uses forms which are completed at all stations then used by LRA to build database of risk clients and communicate them across the board. It also does the reconciliation with other borders of South Africa through South African Revenue Authority (SARS).
- There is Investigation and Intelligence Unit and other information strategies (toll free line and radio programmes like Mokhafisi)
- Current trade volumes- Exports = M5024.3 million and Imports = M9241.2 million (Ministry of Finance Fiscal Analysis Unit, 2006).
- 10 trading partners in the past 3 years are South Africa, Japan, United States of America, UK, Canada, Germany, China, Taiwan, Sweden and Singapore.
- Customs Lesotho deals with goods from both intra and extra SACU.

For those from SACU:

- Upon arrival at the port of entry, documents are produced and goods declared
- Goods are thereafter inspected
- If satisfactory and taxes paid where necessary documents are processed and goods released

For Extra SACU:

g) *Clearance Section*

The division is charged with the responsibility of controlling all imports and exports. It deals mainly with the import clearance of all government, diplomatic, trade and private imports for home consumption. All goods require permits or license issued by the Ministry of Trade and industry. For exports goods being submitted for certain preferential regimes such as GSP, for despatch to the USA or EU require a 'Form A' to be issued by the Ministry of Trade. This form is a general certificate of authenticity to the effect that the goods are of Lesotho origin. The clearance section authenticates the certificates produced. Bill of entry (CE23) is used for export and exchange control declaration, form (F178) is attached to the documents. It is issued by Central Bank of Lesotho. If all necessary documents are handed to customs and examination conducted, the documents are processed.

h) *State warehouse*

The procedures adopted at the warehouse involve the usual arrangements for the entry to and exit from bonded warehouses .The clearing agents must make provisional payment at first entry of Customs Common Area (CCA) which is RSA in our case and 25%

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surcharge is made based on the value of goods as a guarantee in case of diversion. All warehouses within SACU are allocated identifying numbers and the number of the intended warehouse of destination is quoted on the form CE570 (removal in bond).

A warehousing bill of entry (CE500) is then prepared and a copy is attached to the CE570 and submitted to the first point of entry of CCA for acquittal. Clearing agents then claim their provisional payment. The liabilities rest with Lesotho and are paid upon removal of the goods from the warehouse using CE600.

- We do not have annual records of goods declared as exports and imports.
- Approximately 95% of goods are physically inspected.
- The inspection is done on almost everything where possible but risk basis approach where necessary is used.
- WTO Valuation Agreement is implemented:
  - There are Value declaration forms, internet and Post Clearance audit
  - Approximately 60 % of goods declarations use Article 1- "the transaction value" to determine value
- Implementation of the Appeal System by Customs Lesotho is done in rare cases.
- There is implementation of Pre – Clearance Consultation System on HS Classification and Customs Valuation.
- There is no laboratory owned by Customs Administration Lesotho but Police Forensic laboratory is used.

i) Information and Communication

- (Yes,) there is Import Vendor Credit Facility (IVCF) in place

Others

- Surveys
  - WCO Diagnostic Study on Columbus Initiative
  - Communication Development Strategy
  - Customer Satisfaction Survey
- Customs Lesotho and Donor Organizations Relationships
  - Donor organizations offer funding for training and development

j) Administration Procedures For Trade Facilitation

In Lesotho the organisation responsible for trade facilitation is the Ministry of Trade. The Ministry is responsible for issuing of import and export permits and traders' licences as a means of control. Currently there is no trade of between trade facilitation and revenue maximization. The customs administration is faced with a mammoth task of meeting the Government set revenue targets and at the same time controlling of importation and exportation of goods. In most cases, this has proven to be a hindrance in trade facilitation, as in an effort to maximize revenue collection, almost 100% of the goods crossing the border is inspected. Moreover, most procedures are done manually and there is a lot of paper work involved. This consumes a lot of time and is definitely a barrier to smooth trade processes.

So as to address some of the problems encountered, the administration has embarked on some strategies to ease the pressure. The administration has adopted a system called Import VAT Credit Facility (IVCF). The system is meant for VAT registered Vendors whose businesses have annual turnover of 0.5 million Maloti and above. The system enables the importer to cross into the country without having to pay tax at the border; rather the system allows them to pay the due tax at the end of the month.

Currently the administration is implementing the accreditation scheme whereby importers and exporters who have shown a high level of compliance are afforded an opportunity to cross without being inspected. But it must be clear that the post clearance inspection will still be conducted.

k) Advantages of LRA

The Lesotho Revenue Authority (LRA) has to some extent succeeded in improving the revenue collection during the short time of its operations. The authority introduced measures that made tax payment easier, provided public tax education and a tax advice centre. Harmonisation of the value added tax with South Africa (at 14%) and capacity building at border posts helped remove long queues and encouraged more buyers to declare their transactions. The authority also intensified efforts to enforce tax compliance by seizing goods of those that tried to evade tax. Tax audits were also undertaken on those suspected to under-declare their profits or the sources of their incomes. This resulted in an estimated 11.9% rise in income tax collections for the fiscal year 2003/2004, according to the 2004/2005 government budget.

However, the formation of Lesotho Revenue Authority was in line with the belief that customs reform is a vital feature of successful trade. Increasing the ease and speed of goods, as they move across international borders, has a significant bearing on one country's ability to trade successfully. If goods get stuck in transit, or if the duties are onerous to process, the business of trade is handicapped by red tape.

Recognizing the importance of strong links between the Lesotho Revenue Authority and its main trading partner through the South African Revenue Service, the Lesotho Revenue Authority began by abolishing the sales tax and introducing Value Added Tax (VAT) at 14%, similar to the rate in South Africa.

At a stroke, South Africa was enabled to fund directly to the Lesotho Revenue Authority all value

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added tax paid on goods imported from South Africa hence other parts of the common customs area. This means that individual importers had one less thing to worry about. However, there is still a problem of not being able to meet the 'one stop declaration convenience'.

VI. Conclusion

In the meantime, income tax is projected to contribute 14.4 % and 10.8% respectively, to total revenue. It is highly believed that this is not a fair share. Evasion and corruption are rife in tax collection and this has resulted in loss of revenue and unlawful enrichment of individuals engaged in these illegal practices. The customs tax collection has contributed a vital share of government revenue. However, Lesotho should improve its standards in tax collection so as to enhance its independence from SACU through tax base diversification and sustainable international development projects, not only LHWP. Furthermore, the local entrepreneurs should be enlightened more on the usage of the tax pay so as to encourage their corporation in tax collection. On the other hand, the government should intensify the social and economic developments of the country to encourage tax payers.

Lesotho's revenue base has continued to depend disproportionately on customs revenues. For the past ten years customs receipts, excluding grants, have on average, accounted for 54% of total revenue and have financed 78% of recurrent expenditures. This goes to show how the government and in fact the whole economy is dependent on customs revenues. This is under threat is almost likely to be significantly affected by a number of events that are currently taking place in the world economy. These include the outcome of renegotiations of the SACU agreement, the European Union/RSA free trade agreement, the ratification and the implementation of the SADC Trade Protocol and anticipated next round of World Trade Organization negotiations. All which may definitely put the future of tax revenue to an end. Therefore our tax policy needs to aim at reducing dependence on SACU receipts.

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