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About the TPSD/E Facility

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Disclaimer

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TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS IV
LIST OF TABLES VI
EXECUTIVE SUMMARY VII
1. BACKGROUND AND JUSTIFICATION OF THE ASSIGNMENT 1
1.1 Justification of the Assignment 1
1.2 Socio- Economic Context 1
1.3 Expected Results and Objectives of this assignment 3
1.4 Private Sector Development Strategy for Eswatini (PSDS) 4
1.5 Methodology 4
2 MAP LEGISLATION, POLICY REFORMS, POLICY DIALOGUES NEEDED TO IMPROVE THE BUSINESS ENVIRONMENT AND INTERNATIONAL ANALYSIS OF ESWATINI AS A BUSINESS DESTINATION 6
2.1 Mapping of Legislation, Policy reforms and Policy Dialogue Required 6
2.2 Impediments to investment in Eswatini 18
2.3 Analysis of elements relevant for the EU to concentrate on 19
3 BUSINESS/INVESTMENT PERCEPTION SURVEY OF THE ESWATINI INVESTMENT CLIMATE BY EU AND SWAZI BUSINESSES 23
4 ASSESS AND PRIORITISE PROMISING SECTORS SUB-SECTORS FOR INVESTMENT BY EU BUSINESSES AND IDENTIFY RESTRICTIONS TO PRIVATE SECTOR INVESTMENT IN THOSE SECTORS 24
4.1 Agriculture 24
4.2 Energy Sector 29
4.3 SME Development 32
5 BASED ON THE PROPOSED INVESTMENT PROGRAMMES (PIPS), EXPLORE INVESTMENT OPPORTUNITIES AND USE OF THE EFSD GUARANTEE BY PRIVATE SECTOR STAKEHOLDERS 34
5.1 Agriculture 34
5.1.1 Opportunity 1: Livestock – Cattle 34
5.1.2 Opportunity 2: Horticulture 35
5.1.3 Opportunity 3: Smallholder Forestry - Wattle Invasive Management 35
5.2 Energy 38
5.2.1 Renewable Energy (IPPs) 38
5.3 SME Development 39
6 VIEWS OF ESWATINI COC AND EU/MEMBER STATES COC ON THE RELEVANCE, FORMAT, FEASIBILITY OF SETTING UP A PRIVATE SECTOR INDABA ON ADDRESSING BARRIERS TO INVESTMENT 42
7 TYPE AND FORMAT OF TECHNICAL ASSISTANCE/CAPACITY BUILDING THAT CAN CONTRIBUTE TO EMPOWER THE ESWATINI CHAMBER OF COMMERCE TO IMPROVE THE BUSINESS ENVIRONMENT IN ESWATINI .44
7.1 Challenges faced by Chambers of Commerce 47
7.2 Defining Best Practices for Chambers of Commerce 47
7.3 Chambers of Commerce Best Practices Identified 48
8 CONCLUSIONS 52

8.1 Overall conclusions 52
8.2 Legislation, policy reforms and policy dialogues 52
8.3 Impediments to the investment climate in Eswatini 53
8.4 Investment Climate Survey 54
8.5 Promising sectors and sub-sectors for investment 54
8.6 Potential Investment Opportunities (based on proposed EFSD PIPs) 55
8.7 Current Bankable Investment Opportunities Identified 56
8.8 Views of Eswatini FSE&CC, EU and Member State Chambers 56
8.9 Type and format of technical assistance/capacity building required to empower Eswatini Chamber of Commerce 56

9 RECOMMENDATIONS 58

9.1 Implementation Plan 60

10 LIST OF ANNEXES 61

Terms of Reference 61
List of Companies Interviewed for Perception Survey 66
Bankable Investment Opportunities Requiring Funding 67
Site Location 68
Biomass Potential 68
Cost of Renewables vs Fossil Fuels: 68
Biomass Power Plant detail 69
Project Benefits 69
Work plan 72
References 72
Consultations Conducted 74

ACRONYMS AND ABBREVIATIONS

AFD	Agence Française de Développement
AfDB	African Development Bank
AU	African Union
CCIA	COMESA Common Investment Area
CEO	Chief Executive Officer
COMESA	Common Market For Eastern and Southern Africa
CoC	Chamber of Commerce
CSP	Country Strategy Paper
DEU	Delegation of the European Union, Eswatini
EBRD	European Bank for Reconstruction & Development
EC	European Commission
EDF	European Development Fund
EFSD	European Fund for Sustainable Development
EIB	European Investment Bank
EIP	External Investment Plan
EPA	European Partnership Agreement
EU	European Union
FA	Financing Agreement
FIs	Funding Institutions
FSE&CC	Federation of Eswatini Employees and Chamber of Commerce
GoS	Government of Eswatini
HR	Human Resources
IA	Institutional Assessment ('Six Pillars' Compliance)
IMF	International Monetary Fund
ICP(s)	International Co-Operation Partner(s) (International/Bilateral Donors)
ICT	Information & Communication Technology
IDZ(s)	Industrial Development Zone(s)
IPP	Independent Power Producers
IRM	Investor Road Map
JV	Joint Venture
KRAs	Key Result Areas
kW	Kilowatt
kWh	Kilowatt hour
LGB(M)	Loan-Grant 'Blending' (Mechanism)
MEPD	Ministry of Economic Planning and Development
M&E	Monitoring and Evaluation
MIP	Multi-Annual Indicative Programme
MIS	Management Information System

MW	Megawatt
Namboard	National Agricultural Marketing Board
NDS	National Development Strategy
NIDCS	National Industrial Development Corporation of Eswatini
NIF	Neighbourhood Infrastructure Fund
PIP	Proposed Investment Programmes
PPT	PowerPoint
RE&IPP	Renewable Energy and Independent Power Producer
SB4A	Sustainable Business for Africa
SDGs	Sustainable Development Goal(s)
SEC	Eswatini Electricity Company
SEDCO	Eswatini Enterprises Development Company
SERA	Eswatini Energy Regulatory Authority
SIDC	Eswatini Industrial Development Company Ltd
SIPA	Eswatini Investment Promotion Authority
SWADE	Eswatini Water & Agriculture Development
TOR	Terms of Reference
TPSD	Trade and Private Sector Development

LIST OF TABLES

Table 1: List of policy constraints and regulatory outcomes impacting on private sector development, the relevant legislation and existing structures / role players involved in dialogue. 6
Table 2: Constraints, Needs and Opportunities 28
Table 3: Snapshot of the Energy Sector in Eswatini. 29
Table 4: Energy Constraints, Needs and Opportunities 32
Table 5: Economic value of Wattle 37
Table 6: Impact of Wattle Smallholder Farming 38
Table 7: Definition of MSMEs 39
Table 8: Summary of Investment Opportunities under EFSD Guarantee 40
Table 9: Summarised the Views of Respondents 42
Table 10: FSE&CC SWOT Analysis 44
Table 11: Capacity Building Plan 46
Table 12: Criteria to guide the inputs and processes of Chambers of Commerce.....48
Table 13: Best Practices Guide for consideration by Eswatini Chambers of Commerce.....49
Table 14: Investment Programmes (PIPs) 55
Table 15: Implementation Plan 60
Table 16: Renewable Biomass Investment Synopsis 67
Table 17: Eswatini Biomass Potential 68
Table 18: Biomass Investment Benefits 69
Table 19: Montigny Operational Review 69
Table 20: MKIII Shareholder Options 70
Table 21: MKIII Planning and Capital Costs 71
Table 22: Horticulture Market Preview 71

EXECUTIVE SUMMARY

Private sector development in Eswatini is inhibited by major barriers and constraints notably an overbearing and punitive Competition Commission, SRA, access to funding for SMEs, low level of managerial skills among entrepreneurs, the non-compliance of products with standards for national, regional and international markets, the lack of skills and qualifications in the local workforce, the unfavourable business climate and the size of the informal sector in general and agriculture in particular. The business climate and the lack of access to finance currently severely hamper the development of the private sector. With the Proposed Investment Programmes (PIPs), the European Union has a powerful tool with which to contribute to facilitating funding to Eswatini's private sector, to encourage the authorities to make the necessary regulatory reforms by supporting the public-private dialogue and to attract European investments.

Eswatini is one of the poorest countries in Africa. Over 70 per cent of the population rely on subsistence agriculture and as a result of food shortages and high prevalence of HIV rate the country has very low life expectancy rate. Eswatini's sluggish growth is expected to endure as government fails to address major economic challenges such as bureaucracy, low literacy rate and youth unemployment. There is a pattern of under-performance and inherent weakness in SME enterprise support infrastructure, in terms of institutional support, advisory and SME business support service provision. Without an effectively functioning and responsive SME support mechanism, development and promotional network, the SME sector is unlikely to transform itself into playing a significant and vibrant role in the national economy. Nor will it realise its potential with regard to income generation and job creation. This is especially the case in a small domestic market with relatively low disposable incomes.

Against this background there is overwhelming evidence for the need to initiate private sector development to address regulatory and policy constraints in a more structured and collective manner involving the EU Chamber and European bilateral Chambers of Commerce hence the justification for this assignment.

The main objective of the assignment was to facilitate the linking up between the Eswatini Chambers of Commerce, private sector representatives in Eswatini and the EU/Member States Chambers of Commerce in South Africa, with a view to facilitate private sector reform, and enrich the public/private sector dialogue on how to improve the business and investment environment in the country. In this regard suggestions are made to stakeholders in the public and private sector on practical ways to reinforce and facilitate a structured dialogue with the Government of Eswatini. Identifying and integrating best practices of other European Chambers of Commerce was undertaken in order for the FSE&CC's work plan to integrate the SB4A approach (analysis of the investment climate and dialogue with government)

The secondary objective to identify projects which will foster the operationalisation of the EIP in the three investment windows, namely energy, agriculture and SME development have been identified. Although the constraints are considerable, particularly in terms of taxation, the application of laws, access to electricity, bankable projects were identified during the assignment are promising since they meet clear needs in the priority sectors of agriculture, energy and SME development and are managed by executives with sound business experience, and can also contribute to the pursuit of Sustainable Development Objectives in view of their social and environmental impact. The executive summary follows the activities as outlined in the terms of reference.

The key legislative, policy and regulatory barriers identified entail the Competition Commission Act; the Companies Act; the Income Tax Act (SRA); the Employment and Industrial Relations Acts and the Immigration Act (Work Permits)

There are several barriers and impediments to doing business in Eswatini affecting the investment climate and dampening private sector development initiatives. For example, apart from the regulatory barriers listed above, the dominance of public sector or national funds into the economic sectors; the difficulties to invest under the land tenure system, the long and uncertain delays in the adoption of new policies and laws even if they affect investments (like it happened for bills to amend Acts about intellectual property and innovation, to establish special economic zones, to establish new land management approaches, etc.) the business impact of HIV, the lack of higher/vocational education and training and the disconnection between wages and productivity dynamics makes Eswatini less attractive than other economies.

The lack of an enabling environment in Eswatini is evidenced by the World Bank ease of doing business 2018 report ranking Eswatini 112th out of 190 countries for overall ease of doing business (down from its 2017 and 2016 ranks and below the ranks of neighbouring economies Lesotho, Botswana, Namibia). The World Economic Forum Global Competitiveness Report 2017/18 ranks Eswatini 122nd out of 144 countries in 2016 and the World Economic Forum's 2013 Travel and Tourism Competitiveness Index (TTCI) rank Eswatini 119th out of 140 countries. The World Bank worldwide governance indicators ranks Eswatini in the lowest 3 quintiles for institutional accountability, government effectiveness, regulatory quality, rule of law and highlight a degrading performance on control of corruption. These indices above give a partial, yet indicative impression of the investment climate in Eswatini.

The structures involved in dialogue and advocacy to address problematic legislation, policies and regulations and in particular the FSE&CC, should be supported by the EUD to reinforce, facilitate and reinvigorate a more structured dialogue between the GoS and the Chambers of Commerce. This can be achieved through the linkages already facilitated with the European Chamber and bilateral Chambers of Commerce in South Africa by utilizing their considerable experience and practices applied in dialogue and advocacy. The following steps are proposed to be initiated by the EUD to reinforce dialogue:

- Strengthen the FSE&CC in its on-going dialogue efforts through establishing a working group consisting of EU Chamber of Commerce and bi-lateral Chambers of Commerce in South Africa, the EUD and FSE&CC in Eswatini.
- Get the working group to jointly review trade and private sector development bottlenecks and prepare adequate responses to improve the business and investment climate.
- Use the working group to add 'clout' and impetus to lobbying and educating GoS legislators
- Develop a lobbying / advocacy plan (building on the FSE&CC's strategic plan) with the above partners to engage with Ministries on policy and regulatory reforms.
- Facilitate renewed intensified discussions by the working group with the relevant Ministries for policy and regulatory reforms.
- Request the EU and Member State Chambers of Commerce to assist in preparing position papers (based on their experience in this field) outlining the background to existing policies, its impact on private sector development and FDI and propose alternative polices with motivations and outline of the impact of revised policies to reach desired state of affairs.
- Engage experts on specific policies such as renewable energy to explain the impact of present policies and/or regulations and motivate concerns where necessary.
- Initiate the write-up of fact sheets on the impact of existing policies and effects on private sector development including statistics and facts to hand to legislators.
- Support the FSE&CC to write short editorials for newspapers to explain and support lobbying and advocacy issues with government.
- Obtain "testimonials" from affected parties and testify in lobbying meetings or luncheons with relevant Ministries.

- Fast track the review of the Competition Act, policies and regulations to result in increased predictability, efficiency and effectiveness of the Commission and address the punitive measures applied by the Commission. Through the amendment, businesses will be clear on their rights and obligations and also on their role in promoting a competition culture.
- Present a case for non-payment to Government service providers to be made an offence and a contravention of PFMA

The SADC-EU-EPA that Eswatini signed and ratified in 2016 has created duty-free quota-free access for all tradable products from Eswatini to the EU. The EPA matches the Government and stakeholders' interests to integrate further in regional and global value chains, diversifying products and markets for exports from Eswatini. The EPA implementation is, however, still in its infancy in terms of getting of the ground and although it has been introduced to the private sector through a presentation at FSE&CC it was done at a low key level leaving room for more aggressively introducing the EPA and its advantages offered to the private sector. Hence there is still a low level of awareness amongst the private sector on the EPA and the advantages it can offer for EU export development. The EPA implementation plan entails a comprehensive action plan outlining specific activities, support structures, indicative outcomes and allocation of responsibilities.

A perception was survey conducted amongst members of FSE&CC with a sample of 28 companies equating to 11% of the paying members of FSE&CC. Eight of the respondents are in the agricultural sector (28.5%) and the balance entailed a cross section of sectors representing a large section of the private sector i.e. financial services, retail, food processing, manufacturing and ICT. The aspects tested include views on the main factors impacting on doing business, rating the investment climate and factors impacting on competitiveness. A 'restrictive' investment climate refer to factors actually restricting companies to do business rather than just impeding on the investment climate which refer to an 'unfavourable climate. The main findings of the perception survey were as follows:

- Sixty per cent (60%) of respondents are of the opinion that there is an unfavourable investment climate prevailing in Eswatini; 40% rate it as restrictive.
- Eighty per cent (80%) of respondents rate the ease of doing business as worsening while the other 20% rate it as staying difficult and unchanged.
- Seventy per cent (70%) of respondents rate government related policies and regulations (competition commission interference, delays to get permits, labour law, transferring funds abroad, punitive tax regulations and land reform) as the main barriers making it difficult to do business in Eswatini, while 16% rate access to finance as the main barrier and 14% rate the smallness of the local market as main barrier to doing business.
- Sixty per cent (60%) of respondents rate high electricity, communication and other government enforced costs as the main factor contributing to non-competitiveness; 16% rate lack of skills as main factor, 16% rate the lack of market information as an inhibiting factor and 8% rate low productivity as the main aspect impacting on competitiveness.
- Eighty per cent (80%) of respondents are of the opinion that government officials at ground (execution) level do not always apply government policies and regulations as stated while 20% state they experience mixed messages in terms of policy and regulatory execution.
- There is consensus by all respondents (100%) that policies and regulations are not clearly communicated by government and often leads to confusion and also which Ministry to deal with as duties and responsibilities often overlap.

In agriculture as a priority sector the following opportunities were identified for investment by EU businesses under the EFSD guarantee and EIP for further evaluation and consideration

Livestock

Livestock particularly cattle, plays an important role both economically and culturally and it is often the main capital reserve of many Swazi smallholders. Livestock holding takes place within three broad land tenure systems: (i) communally held Swazi Nation Land (SNL); (ii) privately held Title Deed Land (TDL); and (iii) publicly held government farms. The opportunity presents itself mainly on Swazi Nation Land (SNL) where 85% of the country's livestock is reared. Cattle as the main capital reserve of many smallholders offer major untapped opportunities for increased domestic production and exports as well as diversified development for the production, processing and marketing of beef.

Horticulture

The horticultural investment opportunities entail funding for domestic MSE investors to supply the local and regional markets and for European investors for export to Europe under EPA and for adding value to vegetables for further processing and packing. A domestic/foreign joint shareholding would be ideal to optimise market opportunities and capitalise on international horticulture technical expertise, capacity building and technology. The horticulture sector is growing increasingly involving small-holder farmers. The varying ecological zones allow for the production of vegetables, and baby vegetables throughout the year. The preferential access to the EU market through the SADC-EH EPA is also a strong driver of the growth of the sector.

Smallholder Community Development (forestry) – Black Wattle invasion management

The project offers an excellent investment opportunity to grow smallholder forestry operators (SME's) in the forestry sector, create employment, and grow income potential and sustainable long term investment. The opportunity entails training local landowners to effectively and sustainably operate smallholder plantations of wattle. Presently Montigny is running a 200ha test unit and it is working well with smallholders earning 10 times their current income. The aim is to find the best way to manage the invasive wattle and boost livelihoods in the long term by offering training on land-use optimisation and smallholder forestry and ultimately purchase a higher quality, more lucrative timber from the communities. The process entails conducting an environmental assessment on each grower's land and designing a land-use plan with them to maximise the value and yields from their property.

For the **energy sector** bankable investment opportunities in renewable energy were identified as very promising especially for biomass. Production of and access to renewable and sustainable energy is fundamental to developing sustainable and inclusive economies and reducing poverty. Biomass renewable energy generation offer one of the best investment opportunities for both domestic and international investors under the EFSD guarantee. There is sufficient raw material (wood chips) coming from sawmill operations and sugar cane operations to produce the total 150 MW required by Eswatini and to become independent from South Africa for its energy needs. The challenge for Eswatini in producing renewable energy is the high upfront cost of supply and installation requiring high amounts of capital. The provision of adequate access to finance and the creation of bankable projects for Eswatini are therefore particularly important. Investors and developers will require both certainty of off-take and certainty about the tariff before deciding to invest.

During the assignment consultation phase the views of the FSE&CC, EU and Member States Chambers of Commerce were obtained in terms of the relevance, format and feasibility of setting up a private sector indaba, field visits, dedicated meetings, other forms of public-private sector dialogues on addressing barriers to business and investment in Eswatini.

The FSE&CC and the EU/Member States Chambers fully support and agree on the relevance of any new initiative to add value to private sector development and reform. The participation of EU and EU Member states in a proposed Indaba, field missions, dedicated meetings and forms of public–private sector dialogues is viewed as relevant. The format could be a full day 'Indaba" to

share the findings of the private sector development project and presentations on topics by EU / Member State Chambers of Commerce, the EUD and past experience of the FSE in advocacy and lobbying. The Indaba could also take the form of a more permanent structure as a working group consisting of the above parties and government officials and department representatives. Any initiative is viewed as feasible if supported, well represented and taken seriously by government departments and Ministries.

In order to determine the type and format of technical assistance and capacity building required to empower the FSE&CC to improve the business environment in Eswatini, a 3-day mission was undertaken in South Africa to meet with the EU and Member States Chambers of Commerce. The objective was to facilitate linkages for cooperation with FSE&CC and the EUD to reinforce dialogue with the GoS and affect policy and legislative reforms. The TOR included a benchmark exercise to identify best practices applied by best performing Member State Chambers, notably the German Chamber of Commerce. An assessment was conducted of the present resources of the FSE&CC to inform a capacity development program to reposition the FSE&CC to improve its standing and 'clout' in the market. The capacity development program includes spending time at the German Chamber of Commerce to obtain an overview of best practising Chambers over a four month period in addition to mentoring and on-the-job training.

It is concluded that urgent attention is required for policy enhancement, an improved regulatory environment, institutional development and capacity building to achieve the deliverable outputs. For any meaningful progress to be made it is also necessary to energise the SME sector as it is a key element of private sector growth. The policy framework needed to be put in place to kick-start this process in government is through the improved functioning of SEDCO currently unable to perform its mandate due to insufficient funding. SEDCO has the mandate for local SME sector development; however, it does the financial and human resources to effectively do so.

Key milestones achieved to date include linkages established between the FSE&CC, EUD, EU and Member State Chambers of Commerce in South Africa to reinforce dialogue on policy and regulatory reforms; proposed capacity building program for FSE&CC including mentoring, coaching, training and exposure to operational processes at the German Chamber of Commerce over a 4 to 6 week period as one of the best practising Chambers. It is recommended that the EUD in Eswatini partner with FSE&CC to form a private sector working group in association with the EU and EU Member States Chambers of Commerce as FSE&CC is the ideal platform to launch a reinforced dialogue to effect policy and regulatory reform. It is further recommended that the SB4A be used as an essential building block of pillar 3 of the EIP ("investment climate") to pull in Eswatini private sector perspectives and ensure ownership of the EIP as SB4A is the overarching structure for existing and new structured dialogue with the private sector with its ultimate objective to contribute to decent job creation.

The bankable investment opportunities identified are complementary to existing EU and other initiatives and meet the criteria for "additionality". It is recommended that he EU Delegation feed these potential projects back up the line to the EIP Secretariat in Brussels as well as the IFIs for possible part investments by EU investors with the initiators.

1. BACKGROUND AND JUSTIFICATION OF THE ASSIGNMENT

1.1 Justification of the Assignment

Private sector development in Eswatini is inhibited by major barriers and constraints notably an overbearing and punitive Competition Commission, access to funding for MSMEs and SMEs, low level of managerial skills among entrepreneurs, the non-compliance of products with standards for national, regional and international markets, the lack of skills and qualifications in the local workforce, the unfavourable business climate and the size of the informal sector in general and agriculture in particular. As a consequence and due to the low economic growth of the last two years (with forecast of 1.2% in 2018) and underperforming economy as a whole, significant efforts must be made to improve the business climate (Eswatini is ranked 112th out of 190 countries in 2018 in terms of the ease of doing business), to increase funding to the private sector, and to increase the skills of entrepreneurs and the available workforce.

Eswatini has one of the highest skills mismatch index in the world. It ranks 136th out of 139 countries in relation to lower educational attainments than lower middle income countries, especially at the secondary and tertiary level[1]. To overcome its development challenges, the country needs to break out of its low-growth low-jobs trajectory. Overall investment has declined from 17% of GDP in 2000 to 8% GDP in 2015. The decline was largely driven by falling private investment to around 8% in 2016[2]. Over the past two decades, average investment levels in Eswatini have been lower than regional comparators and other fast-growing small states. Foreign direct investment net inflows are in decline and below 1% of GDP[3]; the stock of FDI investment has declined to a point that 2016 levels are back to 1995 level of 545 million US$[4] .

Against this background there is overwhelming evidence for the need to initiate private sector development and to address regulatory and policy constraints in a more structured and collective manner involving the EU Chamber and European bilateral Chambers of Commerce. The EU considers the development of the private sector, trade and regional economic integration as powerful levers with which to reduce poverty and has a major role to play in this context. The strategy of engagement with the private sector aims to stimulate growth and investment, create jobs and generate tax receipts to finance public services.

1.2 Socio- Economic Context

Eswatini is one of the poorest countries in Africa. Over 70 per cent of the population rely on subsistence agriculture and as a result of food shortages and high prevalence of HIV rate the country has very low life expectancy rate. Eswatini's sluggish growth is expected to endure as government fails to address major economic challenges such as bureaucracy, low literacy rate and youth unemployment.

The Kingdom of Eswatini (now renamed eSwatini) is a small, landlocked, open economy, with close trade and financial ties with South Africa. Around 70% of Eswatini's 1.3 million people are based in rural areas. 63% of the population lives below the national poverty line and 42% below the international poverty line. Unemployment stands at 26% of active population in 2015, at 53% among the youth (aged 15-24) at 53% and 46% among women. Income inequality remains one

[1] IMF issues paper "Investment employment and inclusive growth in Eswatini" 2017
[2] IMF, Article IV Report 2017
[3] World Development Indicators 2017, World Bank
[4] UNCTAD World Investment Report

of the highest in the world, reflecting high unemployment and unequal distribution of wealth[5]. A lower middle income country, it registered a GDP of US$4,118 billion in 2015 (current prices).

The economy comprises agriculture (10% GDP), industry (37%) and services including Government (52%). Manufacturing of Coca-Cola concentrate and sugar-related processing, other agriculture and agro-processing (vegetables, fruits, and meat), forestry and mining are the mainstays of the economy while Tourism has a potential to develop. Eswatini's economy has a relatively small domestic market size. In previous periods, Eswatini has relied on exports as an engine of growth. The country accounts for 0.01% of the world imports and exports[6], exports still have to be diversified as sugar commodity remain the dominant export products.

In the 1980's, Eswatini registered rapid average economic growth that far surpassed those of other members of SACU, SADC and COMESA countries. However, economic growth started deteriorating in the 1990s with the situation significantly worsening since 2011. Real GDP remains stays muted at around 1% in 2016 to the first quarter 2018 and growth is not expected to return rapidly in relation to fiscal challenges and declining investment flows to the country. The low-growth levels are blamed on 2015/2016 exceptional drought, a weaker mining sector, and a difficult external environment, especially as South Africa's economic performance and monetary policy impacts directly on the local economy. South African market accounts for an estimated 90% of Eswatini's imports and consumes about 60% Swazi exports. The national budget is highly reliant on the Southern African Customs Union (SACU) revenues (43% of Government receipts in 2017/2018 budget). The country has been experiencing growing fiscal deficits leading to growing public debt (25% of GDP in 2016/2017).

The regional markets have increasingly become an important source of Eswatini's imports and exports largely due to reforms and participation in the regional integration agenda. Although Eswatini's export trade to COMESA and SADC has increased since the implementation of the free trade areas (FTAs) under both arrangements, Eswatini has recently recorded trade deficits under both arrangements due to her narrow export base. For instance, sugar is the only major foreign exchange earner following the closure of wood pulp in January 2010 as well as the declining in the importance of mining[7] in recent years. As a result, Eswatini's contribution to the world income via exports performance correspondingly declined, as evidenced by negative balance of trade, which stood at €0.6 billion of imports against €0.2 billion of exports in 2016.

Up to 2016, Eswatini, like other African-Caribbean-Pacific (ACP) countries enjoyed trade preferences for sugar from the EU, resulting in sugar exports performing better. Since June 2016, the SADC-EU Economic Partnership Agreement creates significant new opportunities for diversifying Eswatini exports to the EU and for further integrating Eswatini in regional and global value chains. The implementation of the web-based customs data management platform ASYCUDA World with EU and other development partners' support also made exporting and importing easier. Now, to take full advantage of the development benefits of the SADC-EU EPA, the country needs to roll out its strategies to increase and diversify its exports, develop its capacity to comply with quality standards, address remaining logistical and administrative obstacles relating to regional trade, and further build its capacity and resources to deal with customs and border controls.

In addition to the SADC-EU EPA implementation, some recent developments are favourable to business development. The Government is especially implementing: the 2018 Financial Inclusion strategy and the 2017 Public Finance Management Act; in 2015 the Government developed a Grid Code and a Renewable Energy and independent Power Producer (RE&IPP) policy to create a

[5] UNDP Human development report 2016
[6] http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=F&Country=SZ
[7] The only active mining activities are for coal and quarry stones

transparent regulatory regime and attract investment as Eswatini imports over 80% of its electricity from South Africa and Mozambique yet it has the potential to generate its own energy using renewables. The Eswatini Sugar Association has also adopted a reinforced strategy to diversify its markets and products. However, the abolition of EU sugar quotas in October 2017 was followed by a sharp rise in sugar exports and revenue, acting as a disincentive to diversification. Exports of meat and high value crops (vegetables exports to EU, Africa and Middle East markets) are also areas of growing interest for local and foreign investors, and EU based importers. The parastatals SWADE and NAMBoard with support from the EU are mobilising farmers' companies for commercialisation, developing IT services and engaging with local and EU financial institutions to develop such value chains.

Despite this potential, there is an urgent need to do more to attract private sector investment into the country at a particularly low level. The GoS is also aware of this need to attract both foreign and domestic investments to raise economic growth and employment and has presented recent initiatives to facilitate such investment, such as the Private Sector Development Strategy (PSDS), the Investor Road Map (IRM) and the Economic Recovery Strategy (ERS). Unfortunately, the actual implementation of these strategies is slow, with limited impact on the ground. Thus, the Eswatini Investor roadmap from 2005, re-launched in 2012, recommended various regulatory reforms to improve the country's competitiveness; but several key reforms remain to be completed and the momentum to improve the business/investment environment need to be regained (in the World Bank Doing business report 2018, Eswatini's' ranking has deteriorated and lags behind comparable economies or regional counterparts). Strategies for trade, investment or industrialisation lack harmonising. The legal and regulatory environment is unpredictable as the executive and parliamentary processes to draft and amend legislation are lengthy.

1.3 Expected Results and Objectives of this assignment

O1: To facilitate the linking up between the Eswatini Chambers of Commerce, private sector representatives in Eswatini and the EU and bilateral Chambers of Commerce based in South Africa, with a view to facilitate and enrich the public/private sector dialogue on how to improve the business and investment environment in the country.

(i) Suggestions to advise stakeholders in the public and private sector on practical ways to reinforce and facilitate a structured dialogue between the Government of Eswatini and the Chambers of Commerce and the private sector at large on key barriers to doing business / attracting new investment in Eswatini, focusing on what can be done in 2019-2020,

(ii) A series of recommendations for developing a concrete action plan as a follow-up action in order to facilitate the contacts and exchanges between the Eswatini Chambers of Commerce and private sector representatives in Eswatini and the EU Chambers of Commerce based in South Africa/Mozambique, the bilateral Chambers of Commerce of the EU Member States based in South Africa/Mozambique, focusing on the 2019-2020 period;

(iii) Sharing and integrating the best practices of other European Chambers of Commerce in order for the Chamber's work plan to integrate the SB4A approach (analysis of the investment climate and dialogue with government)

O2: To support the operationalisation of the External Investment Plan (EIP) in Eswatini.

(iv) Advice on the legislation, policy reforms and policy dialogues needed in Eswatini to improve the business and investment environment in the short-, medium- and longer-term, taking into account the expertise and on-going activities of the EU and Member States Chambers of Commerce based in South Africa/Mozambique to improve the business/investment environment in the Southern Africa region;

(v) Exploring investment opportunities and potential use of the EFSD guarantee by private sector stakeholders in Eswatini based on the information available in the Project Investment Proposals in the five EFSD windows. As indicated under point 1, the analysis should equally take into account the existing the Jobs and Growth Compact and development cooperation portfolio in Eswatini (for example, the recent report on the beef value chain analysis is very informative).

1.4 Private Sector Development Strategy for Eswatini (PSDS)

A Private Sector Development Strategy (PSDS) was developed in 2010/11 as a framework for partnership between the private sector and GoS in causing improvement in the business environment. Its key objective is to enhance competitiveness of enterprises and increase their contribution to economic and employment growth in Eswatini. It further seeks to increase jobs and tax revenue for government. Consumers will also benefit through quality and affordable goods and services. The PSDS is intended to contribute to the operationalisation of the country's Vision 2022 enshrined in the National Development Strategy (NDS) building on other national strategies aimed towards enhancing competitiveness of the economy of Eswatini, for example, the National Export Strategy (NES).

The PSDS was an initiative of the Federation of Eswatini Employers and Chamber of Commerce (FSE&CC) endorsed by the government of Eswatini. At the outset, Government through the Ministry of Commerce, Industry and Trade provided support towards a request for technical assistance from the Commonwealth Secretariat.

Formulation of the PSDS was finalised in April 2011 after extensive consultation and harmonisation of stakeholder input. The project was undertaken by Working Groups in liaison with a National Team comprising representatives of both the private and public sectors. A National coordinator from the FSE&CC was responsible for ensuring that all agreed activities were undertaken by those responsible. The vision of the PSDS was that "by 2016 the private sector will be a vibrant driver of economic growth in partnership with government." Therefore, the PSDS promotes reform activities in five key result areas for achieving the vision namely enabling environment, trade facilitation, employment, infrastructure development and human resource development. The PSDS has since been incorporated into the FSE&CC work plan for continued implementation.

Nation-wide consultations conducted at the time emphasized that the private sector should be the engine of economic growth and support development in Eswatini. There was consensus that private sector development is constrained by mainly two factors arising from within the domestic business environment. The first one is that obstacles to private sector growth are predominantly created by the weak policy and institutional framework which prevents public institutions from creating and maintaining a favourable business climate as well reinforcing the social benefits of the private sector. The second is market failure which limits the ability of private enterprises to achieve social benefits of their investment. Obstacles to private sector growth in Eswatini relative to private sector in other countries leaves the private sector with no choice except to scale down investment, shut down completely or in some cases move from the formal economy into the informal sector.

1.5 Methodology

The methodology in conducting the assignment entailed extensive consultations with private sector companies role players involving personal and telephonic interviews, interim feedback to the DEU, facilitating workshops (one for domestic investors and one for international investors) to explore policy and regulatory barriers, the current investment climate, ease of doing business

and provide an overview of the EIP and EFSD guarantee. The methodology entailed the following actions and activities:

- Review of relevant documentation, reports, articles, annual reports, etc.;
- Desk top research and internet search;
- Interviews, outreach and consultative process;
- Attend "Development Partners Retreat hosted by the MEPD
- Analysis and interpretation of information;
- Preparation of interim report and submit for review;
- Obtain feedback and comments for incorporation;
- Preparation of draft final report and submit for review;
- Obtain feedback, incorporate changes, update and submit final report;

The report is structured according to the activities outlined in the Terms of reference under the following headings:

(i) Map the legislation, policy reforms, policy dialogues needed in Eswatini to improve the business environment, on the basis of: a desk analysis of the existing legislation and policies /legislation and policies in preparation, of international analysis of Eswatini as a business destination, of a business/investment survey on the perception of the Eswatini investment climate by EU and Swazi businesses.

(ii) Assess and prioritize promising sectors/sub-sectors for investment by EU businesses and identify restrictions to private sector investment that specifically affect those priority sectors.

(iii) Based on the proposed EFSD PIPs, explore potential investment opportunities and use of the EFSD guarantee by private sector stakeholders in Eswatini, taking into account also priorities as defined in the Jobs and Growth compact, i.e. focusing mostly on the Energy, Agriculture and SMEs windows.

(iv) Collect the views of the Eswatini Chambers of Commerce and EU/Member States Chambers of Commerce, of the relevant public authorities on the relevance, format and feasibility of setting up a private sector indaba, field visits, dedicated meetings, other forms of public-private sector dialogues on addressing barriers to business and investment in Eswatini.

(v) Define the type and format of technical assistance/capacity building that can contribute to empower the Eswatini Chamber of Commerce and Eswatini businesses to contribute to developing regulations, policies and activities improving the business environment in Eswatini.

2 MAP LEGISLATION, POLICY REFORMS, POLICY DIALOGUES NEEDED TO IMPROVE THE BUSINESS ENVIRONMENT AND INTERNATIONAL ANALYSIS OF ESWATINI AS A BUSINESS DESTINATION

2.1 Mapping of Legislation, Policy reforms and Policy Dialogue Required

The policy constraints, regulatory issues, relevant legislation, responsible institutions as well as existing structures and/or role players impacting negatively on domestic and international private sector development, are outlined in the table below.

Table 1: List of policy constraints and regulatory outcomes impacting on private sector development, the relevant legislation and existing structures / role players involved in dialogue.

Policy Constraints	Regulatory outcomes / analysis	Relevant Legislation	Responsible Institution	Existing structures/ role players involved in dialogue and advocacy
Complex company registrations and requirements to start a business One of the main policy constraints is the complex / lengthy company registration process. It entails an elaborate number of compliance processes ***for example s***tarting a business requires 12 procedures and 30 days; getting electricity entails 6 procedures but takes 137 days; dealing with construction permits entails 14 processes and takes 116 days, enforcing contracts takes 956 days to get to court. The Companies Act policies distinguish between domestic and international investors with a different set of requirements for each. While stated policy entail working towards providing a satisfactory turnaround time in the application	The Registrar of Companies' mission is to ensure legal protection of foreign and local companies through the registration of companies. As a service provider it is the Registrar departments' strategy and mandate to provide efficient services. However, the reality is that it is not a well-functioning department as evidenced from the examples below. The regulation requires applicants to have a bank account to register a company; however, on the other hand Banks require a registration certificate before opening a bank account. Employees of new companies need a letter from their employer to confirm they are employed before they can open a bank account. When applying for and obtaining trading licences the regulator and legislation are saying two different things in terms of the requirements, leading to confusion. In order to obtain a factory for lease, the applicant needs a health certificate, which adds to	Companies Act, 2009 - the act consists of a comprehensive set of rules and regulations from setting up to winding up a company. The office of the Registrar consists of the Registrar, Deputy Registrar and such other officers who shall be responsible for administrating this Act and performs such functions and exercise such powers as may be conferred on them by this Act or any other enactment. ***The challenge with the Act is how it is administered and being regulated with red tape and complex procedures.*** ***The legislation and policies contain too much red tape and needs to be amended to reduce the number of procedures required to register and start a business, simplify the process***	Ministry of Commerce, Trade and Industry	**MICT (National Technical Committee on Investments)** This is a Committee under the Ministry of Commerce, Industry and Trade which is coordinated by the Investor Road Map Unit. It is supposed to be chaired by the Principal Secretary and supposed to be one of the main forums for private sector engagement by the Ministry. It is supposed to meet fortnightly; however, the challenge is that there is little or no commitment from Government to drive this Committee. For example, the chairperson and his officials are regularly not in attendance. The FSE&CC has brought a matrix of issues and legislation to the Committee for deliberation, however, very little progress has been made on same. **Investor Road Map (IRM).** In 2012, Eswatini re-launched its 2005 Investor Roadmap aiming to improve the country's competitiveness. The roadmap details procedural, administrative and regulatory barriers that hinder investment in the country and recommends regulatory reforms. Most of the identified reforms remain unaddressed. The implementation of the re-launch of the Investor Roadmap in 2012 is slowly progressing. **The Eswatini Investment Promotion Authority (SIPA)** advocates for foreign investors and facilitates regulatory

and registration of companies, which will minimize the frustration of investors, the reality does not reflect this. To improve the situation the policy makes provision for on-line registrations; however, it is not having the desired effect as the online registration facility is non-functioning apart from allowing for company name checks and reservations. Actual experience in visiting the registration offices confirm the challenges faced with long waiting times and complex processes involved.	cumbersome procedures of doing business in country Approvals for building alteration plans take up to 4 months leading to delays in starting up a business. The complex company registration process and red tape involved, leads to higher cost of doing business and negatively impacts on the ease of doing business. For example to produce 1 ton of feed requires 15 different permits i.e. to import raw material. The situation necessitated the employment of dedicated employee just to work on and monitor permits.	***and reduce the time required to register a business***		approval, but lacks the political clout necessary to prevent unsolicited government and royal family interference in private business affairs. Recent positive developments include allowing for company registration online (non-functioning) and amending the immigration laws to make it easier for foreign workers to remain in the country.
Competition Commission policy Eswatini's competition policy is broadly defined as a policy that promotes the level of competition in markets, and includes all governmental measures that directly affect the behaviour of market participants and the structure of markets. The basic objective of a competition policy is the promotion and the protection of a competitive process in all markets. The competition policy seeks to achieve a level-playing field for all market players. ***While the aims and objectives of the Competition Commission is valid, execution of policies and regulations need urgent reforms***	The regulations are cited as the Competition Commission (CC) Regulations, 2010. The problem is with the implementation of the policy as the Commission applies a blanket approach under the auspices of preventing unfair and uncompetitive behaviour. In daily practice Swazi businesses are experiencing punitive measures even when taking over an existing shop or business and are subjected to unnecessary audits and investigations for which the CC charge a fee. By necessity the business in question need to make use the services of an attorney further adding to the cost of doing business. The Commission is trying to expand its revenue base and hence even when a business is expanding it has to approach the Commission necessitating a notification fee. Companies are often forced to use attorneys to expedite and handle process	The Eswatini Competition Commission (SCC) is an independent statutory body established in terms of Eswatini ***Competition Act No. 8 of 2007*** ("the Competition Act") for the purpose of encouraging competition in the economy by controlling anti-competitive trade practices, mergers and acquisitions, protecting consumer welfare and providing an institutional mechanism for implementing the objectives of the Competition Act and other matters incidental thereto. The CC is also tasked with administrating the Fair Trading Act of 2001 ("the Fair Trading Act"). This aspect of the Commission's mandate informs the consumer protection feature of the work of the Commission. Through this Act, the	Eswatini Competition Commission (SCC)	The Federation of Eswatini Employers and Chamber of Commerce (FSE&CC) is a voluntary, non-profit making member-based organisation representing employers and businesses in all sectors of Eswatini's economy to promote trade and harmonious labour relations. *Its mission is to improve the ease of doing business through advocacy and representation of the business community*. FSE&CC is the main voice of the private sector in Eswatini representing more than 80% of big businesses in Eswatini. It protects the economic interests of the business community through continuous advocacy, engagement and dialogue on legislative and policy issues. Throughout its existence, FSE&CC has forged working relations with the Government of Eswatini and other key stakeholders within and beyond the Kingdom of Eswatini. FSE&CC is a member of the International Organisation of Employers (IOE), the SADC Private Sector Forum and the COMESA Business Council. The main objectives of the organization are to:

to become less intrusive, overbearing and punitive. In one example a company was investigated by the CC and 38 charges were laid. The investigation lasted more than 3 years involving legal representation. In the end the company was found guilty of one transgression and it was found to be so minor that no fine was imposed. However, it cost the company SZL9 million in legal and related costs.	The time delays in getting projects approved can take 18 months and has led to notification costs of SZL600,000 for a merger in one instance contributing to escalating project cost The Commission is reported to make use of ex-police officers as investigators without a sufficient understanding of business principles to take informed decisions and individuals subpoenaed to appear in court. The Commission charges penalties if they are not informed leading to higher cost of compliance. The Commission's effectiveness in carrying out its mandate has been limited by ambiguity and/or omissions in the current competition law. The gaps or loopholes that are contained in the legislation have opened the door to different interpretations of the provisions of the Act and Regulations. Certain provisions of the current statute and regulations are not entirely clear i.e. definition of terms; the institutional arrangement, responsibilities and powers; investigation and adjudication procedures as well as time periods; merger provisions; prohibited unilateral conduct; prohibited agreements; exemptions; authorization of certain practices; leniency policy; administrative penalties; criminal sanctions; participation of stakeholders in investigations; obstruction of investigations; hearing procedures; etc. The Fair Trading Act since it was enacted prior to the Competition Act and it recognizes the Ministry of Commerce, Industry and Trade as the Government Ministry responsible. This therefore creates a discrepancy for the application of both Acts and therefore necessitated amendment. As regards the Fair Trading Act, consumers are not	Commission is mandated to ensure, promote and protect consumer welfare. The Fair Trading Act is also being amended. Section 33 of the Competition Act, extends the protection of consumers to include protections provided for in the Fair Trading Act.		• Perform an umbrella body role for all businesses in Eswatini • Promote and defend the interests of its members in any way as may be considered necessary • Promote and foster trade, commerce and industry of all descriptions whatsoever, in and outside of Eswatini • Promote, support and/or make representations in relation to legislative or other measures affecting the interests of members and the trading environment • Collect, clarify and disseminate statistical and other information of relevance and interest to our members • Speak authoritatively and independently for the whole business community (business and employers) on issues of policy and public interest • Conciliate, negotiate, arbitrate or by any other means contribute to the settlement of commercial or industrial disputes • Provide efficient, relevant, professional and quality services to business for sustainable growth and development In fulfilling its mandate the organization's core functions are advisory; advocacy and representation

	clear about the role of the Commission with regard to their complaints emanating from trading practices of the private sector. The Commission faces various challenges such as inadequate advocacy initiatives due to budgetary constraints; concerns about transparency, independence and due process; Underdeveloped performance management culture and system; Inadequate staff capacity building and retention and limited government subvention.			
Income Tax Policies. The Eswatini Revenue Agency (SRA's) stated policy is a commitment to consulting with commercial stakeholders in Eswatini on its strategies, policies, operational programs and administrative procedures that govern and affect Eswatini's commercial trade. However, this policy is not applied in reality and companies are experiencing strong arm tactics by SRA. The tight fiscal situation and budgetary constraints Eswatini finds it in, contributes to increasing punitive tax collection practices applied by the tax authorities in its effort to boost revenues and meet widening budget shortfalls. An example of the policy constraint is the aggressive behaviour of SRA where a company was informed he owes SZL38 million to SRA. In a bid to collect the claimed arrear taxes SRA went to the customers of the company and instructed them to pay	***In essence there are no legislative shortcomings in the Tax Order but the punitive manner of applying policies and regulations need attention. As mentioned the underlying reason for this punitive measures and approach can be ascribed to fiscal constraints experienced by the country.*** The top marginal corporate tax rate in Eswatini is 30 per cent and although this is comparable with other countries, it is far higher than in Botswana (15 per cent). The punitive measures applied by SRA in tax collection practices do not contribute to an enabling environment. Long established companies operating in Eswatini are increasing penalised even for clerical errors without taking circumstances and tax history of companies into consideration. SRA's approaches pose a challenge especially to construction businesses in that they issue an interim payment certificate. The payment terms extended by construction companies to clients is 56 days, however, payment to SRA has to be made within 30 days and if not paid they get charged a once-off penalty of 20 per cent. Also if payments are late to SRA they cannot obtain a TCC and hence can then not submit tenders.	Income Tax Act (Order 12 of 1975) The Order spells out the role and powers of the Commissioner of Taxes and covers the full range of aspects relating to income tax payments. It also relates to objections and appeals and states that there shall be a time and a manner of lodging objections. All objections before the commissioner shall be in writing. The Eswatini Revenue Authority (SRA) is a semi-autonomous revenue administration agency, established through the Revenue Authority Act No 1 of 2008. The laws administrated by the Authority include: • Customs & Excise Act 1971 • Income Tax Order 1975 • Value Added Tax 2011	Eswatini Revenue Authority (SRA)	The SRA consults with commercial stakeholders in Eswatini on its strategies, policies, operational programs and administrative procedures that govern and affect Eswatini's commercial trade. The purpose of these consultations, in general terms, is to promote mutually beneficial collaboration between the Authority and the commercial trade community on border and tax administration matters. For this purpose the SRA established the Business Consultative Committee (BCC). The BCC provides a mechanism for representatives of business to discuss operational aspects of the tax and customs system with the SRA. The role of the BCC is to: Foster a stronger relationship and greater understanding between businesses and the SRA, taking a strategic-level view and aiming to improve the: • administration of the tax system • Implementation of Government policy-on tax related issues. • understanding of the commercial environment • awareness of the concerns of business • Formulation and review of the tax planning on ongoing basis.

monies owes to the company directly to SRA. The company had to use legal means to stop SRA to collect money for its customers and in the end the actual amount owing was SZL2 million. Higher tax burdens and compliance may lead to business closures which is counterproductive leading to less tax payers, discourages businesses to grow, establish new and/or expand their businesses	In cases of an over payment by SRA on provisional tax one will not get refunded and have to prove that SRA owes a refund making it an onerous process. There is presently no tribunal in place and decisions still taken by the Commissioner General. A similar punitive system applies on imports e.g. when an order for 10 vehicles to be imported in batches of 2 vehicles at a time, the importer was expected to pay duties on all 10 vehicles in advance even before they have entered the country. Punitive measures are applied by SRA without distinguishing between legitimate companies making clerical errors and those companies guilty of tax evasion and fraudulent activities. Applying a blanket tax regime approach to businesses without taking into consideration companies' standing in the market and/or years in business, are leaving many companies disillusioned and considering closing their doors. The unwillingness by SRA to refund legitimate claims by companies but acting with lighting speed in penalising businesses when any amount is owed by them creates harsh investment climate.			Consider cross-cutting tax and customs issues, and provide a forum for discussion on strategic issues, focusing on administration and operational policy. **Framework / Membership** The BCC comprises a number of members drawn from businesses (maximum ten) including some nominated by the FSE&CC, Eswatini Institute of Accountants, Law Society, SIPA, SEDCO, Eswatini Commercial Amadoda and FESBC. The Commissioner General chairs the BCC and his office provides secretariat support to the Committee. Other SRA attendees are: • All Commissioners • Chief Legal Officer • Other SRA Directors & professional advisers to be invited to attend as and when a need arises. The BCC meets on a quarterly basis or may meet more frequently should circumstances dictate. As part of the its obligation to foster open communications, the Committee is expected to meet with respective business representatives, associations and any relevant stakeholders in separate executive sessions to discuss any matters that the Committee or each of the smaller working groups believe should be discussed privately. The Chairperson of the BCC is expected to account to the relevant authority (in this case the Minister for Finance) for activities undertaken by the Committee and make recommendations to the Minister concerning the adoption of any matters arising from the forum. Minutes of each meeting of the BCC is supposed to be published on the SRA website. All issues that arise from the BCC are meant to be progressed or dealt with within three months of being raised; exceptions are fully reported at the next BCC meeting. In reality the GoS seem disconnected from the private sector and it is mostly a case of lip service.

Late Payments by government Payments from government departments can take up to 12 months and average from 6 to 12 months leading to cash flow constraints and possible business closures as it threatens the sustainability of businesses	The **PFMA** requires that payments be made within 30 days to service providers and suppliers; however, in practice late payments are threatening the sustainability of many businesses.	The delay in payments to government service providers relates to the **Public Finance Management Act** and in particular policy and administrative procedures. It affects the investment climate and a priority area for EU and FSE&CC actions	Delayed payments of suppliers by Government	FSE&CC is already driving a process to influence government practices in this regard they have updated a Payment Plan to ease the cash-flow crisis experienced by service providers.
Eswatini NICI policies. While the policy document is stated as representing the Government of Eswatini's commitment to the implementation of ICT initiatives (aimed at facilitating & accelerating development) the implementation of the policies is lacking. The policies require that the Commission shall act in an open, transparent and non-discriminatory manner; however, this has not transpired. As a result this government owned institution's actions led to a monopoly of the International Gateway, resulting in the highest communication cost in the South African region, increased cost of doing business and business inefficiencies. The constraints negatively affect the ease of doing business and productivity through slow, unreliable and ineffective connectivity. It is a priority area to address to improve competitiveness of the private sector and SME's in particular.	In August 2006, the GoS adopted the Eswatini National Information and Communication Infrastructure (NICI) Policy. Information and Communication Technology (ICT) has become a strategic resource and is supposed to play a major role in education, agriculture, health, commerce and in poverty alleviation by introducing efficiencies and generating new jobs and investment opportunities. The NICI policy document represents the GoSs commitment to the implementation of ICT initiatives aimed at facilitating and accelerating development. The ***stated NICI policies*** are broadly as follows: • Increasing national consciousness on the role and potential of ICTs; • Guiding the successful integration of ICT in the education system - ensuring standardisation; • Facilitating the development and implementation of the necessary legal, institutional and regulatory framework and structures to support the deployment, utilization and development of ICT; • Creating a conducive/enabling environment for cooperation and partnerships in ICT, between the public and private sectors; • Creating a favourable investment climate in the ICT sector;	**Electronic Communications Act of 2009**. The Act provides a framework for the further development of electronic communications networks and services in Eswatini. The duties of the Eswatini Communications Commission in respect of public communications networks and services entail regulating and enforce provisions of the Act as follows. The Eswatini Communications Commission established under the Eswatini Communications Commission Act shall be the competent Commission to regulate electronic communications under this Act and to enforce the provisions of this Act. In the regulation of electronic communications in Eswatini, the Commission shall ensure: (a) the provision of a wide range of public electronic communications networks and services; (b) as far as practicable, access to any person to install or operate any electronic communications network or to provide any electronic communications service in the Kingdom of Eswatini in compliance with this Act. (2) The Commission may establish ownership limitations in order to ensure sufficient numbers of unaffiliated market participants, and may take	Ministry for Information & Communication Technology (ICT)	FSE&CC on behalf of private sector is advocating for reduced cost of communication, improved productivity, speed and reliability of connectivity on behalf of its members and the private sector as a whole.

The NICI policy constraints furthermore entail: • Lack of competition resulting in high prices, low service quality issues • Lack of IT professionals (networks and data base managers, electronic / electrical engineers and technicians) • Perception of cumbersome regulatory environment, excessive bureaucracy.	• Facilitating the deployment, expansion, rehabilitation and modernization of the national information and communications infrastructure; • Facilitating the development of a viable ICT industry to facilitate research and development; • Development of national human resource capacity to enable the exploitation of ICTs in the society; • Providing universal access to information for all citizens in order to improve the quality of life through inclusive access to education, science and technology, health, culture, entertainment etc.; • Ensuring that the benefits of ICTs are utilised to address gender inequalities in education, and employment opportunities; • Ensuring that all sectorial development plans and projects have an ICT component and to coordinate ICT activities in the country including the formulation of appropriate policies, strategies and plans for the implementation of e-applications; Two pieces of legislation which provide the necessary legal frameworks for improved regulation in the sector, the Eswatini Communications Commission Bill and the Electronic Communications Bill, ***have yet*** to be passed by parliament.	appropriate actions and measures to ensure such participation in the event of market failure. The powers of the Minister The Minister is unlimited to establish develop and revise a policy and regulations for the national electronic communications sector within the Kingdom of Eswatini.		
Eswatini Electricity Company The high cost of electricity emanates from the policy to subsidise the cost of private household electricity by charging higher tariffs to industry The cost of electricity is impacting negatively on the sustainability and viability of smallholder crop farmers.	The energy sector formulated strategies that are in line with the National Development Strategy (NDS), which has set a standard of living target for the country and a place in the world order, intended to be achieved in the year 2022. The regulatory functions which were previously given to SEB have now been transferred to an independent separate entity-the Eswatini Energy Regulatory Authority (SERA). Unlike the SEB, the Eswatini Electricity Company (SEC) will be run	SEC was established in 2007 by the **Eswatini Electricity Company Act of 2007**. The legal regime changed the Eswatini Electricity Board (SEB) into the Eswatini Electricity Company with a specific mandate to generate, transmit, distribute and supply electricity in the country. On 1st March 2007, the Electricity Act of 1963 was repealed as a result of the	Eswatini Electricity Company (SEC)	The Federation of Eswatini Employers and Chamber of Commerce (FSE&CC) in performing its mandate as outlined above

Alternative energy generation (IPPs) is not happening fast enough due to indecision by SEC / SERA. As a result of policy execution and indecision, the vision for Eswatini to generate 50% own electricity supply by 2022 is thus fast becoming a challenge to achieve. There are constraints around the capacity and ability of SEC to manage own electricity sources effectively. ***There is a lack of clarity on the subsidy framework developed by the Regulator***	along full commercial lines, in an environment of competition. SEC will be subject to licensing requirements and regulation of the Energy Regulatory Authority on equal terms with any other Electricity Supply participants. (SEC) imports 85% of its electricity from South Africa adding a margin in distributing it further to Swazi users The prevalent situation is high cost of electricity especially for businesses. The cost of electricity is impacting negatively on smallholder crop farmers with crop farming cost ranging from E1,600 to E7,000 per ha per year depending on its location in relations to canals. Namboard reported that a growing number of small farmers in arrears with SEC and forced to close down businesses. SEC is implementing an environmental policy that keeps up with its commitment to sustainability	promulgation of the Electricity Act of 2007, along with the Eswatini Electricity Company Act of 2007 and the Energy Regulatory Authority Act of the same year.		
The **new employment Bill** is still in draft form and is alleged to be with the Attorney General. The constraints around the new Bill entail discouraging the use of fixed term contracts, seasonal contracts, casual labour, employment through labour brokers and subcontracting which will lead to higher unemployment and higher cost of doing business (where forced full time employment is required). Harsher terms for hours worked, overtime pay, maternity leave, public holiday pay and related issues pertaining to the above category of workers	The new Bill was deliberated upon by the LAB in September 2017. However, copies of same were only shared with members of the LAB in June 2018, after they had demanded copies from the Ministry in the last LAB meeting in April 2018. The failure by the Ministry to timorously share information i.e. the draft Bill, minutes etc, raises the suspicion that the Ministry clandestinely manipulates clauses that have been agreed upon by the LAB. The Bill seeks to introduce some clauses that are not employer friendly. It in essence regulates and/or discourages the use of fixed term contracts, seasonal contracts, casual employment, employment through labour brokers and sub-contracting. The labour regulations proposed in the new employment Bill are:	**The Employment Act, 1980** The Ministry has a Labour Advisory Board of which FSE&CC is a member. The duties of the LAB are to: The Board shall consider and advise the Minister upon any matter affecting employment and labour referred to the Board by the Minister and without prejudice to the generality of this requirement, such matters shall include (a) proposals for any new legislation to employment; (b) amendments to this Act or any other law relating to employment; (c) proposed action in regard to (i) agenda items or texts to be discussed by the International Labour Conference; (ii) the submission of International Labour Conventions or	Ministry of Labour	**Labour Advisory Board (LAB).** The LAB is a tripartite structure established by the Industrial Relations Act, 2000 (as amended and sections 23-25 thereof). It consists of representatives from Government and the worker and employer federations. It is responsible for advising the Minister of Labour and Social Security on any matter affecting employment. This includes proposals for any new legislation or amendments to existing legislation. It also includes ILO initiatives and the ratification and denunciation of ILO Conventions. The challenges currently experienced in the LAB relate to its governance. Government chairs the meetings and controls the agenda and the LAB is supposed to sit monthly but it currently sits very irregularly. Its last ordinary meeting was in April 2018, which followed a meeting held in September 2017. The latest transgression has been the gazetting of the Eswatini National Pension Fund Bill, 2018 in June 2018 and in August 2018, without bringing it to the LAB for consideration.

Implementation of the Bill will lead to a decline in the number of casual, part time, seasonal and contract workers and hence higher unemployment overall ***The new draft employment Bill is problematic and a priority area for reinforced dialogue in need to be intensified***	Stringent regulations prohibiting labour brokers, outsourcing and subcontracting Regulations around fixed term contract employees, casual workers, seasonal employees, part time employees	Recommendations to the Government; (iii) recommendations and un-ratified International Labour Conventions; (iv) questions arising out of reports submitted under Article 22 of the Constitution of the International Labour Organisation; (v) The denunciation of ratified International Labour Conventions.		This Bill seeks to convert the existing national provident fund into a national and mandatory pension fund. It therefore, comes with increased contributions by both employees and employers. **National Steering Committee on Social Dialogue.** This is another tripartite Committee established under and chaired by the Ministry of Labour. It is meant to discuss socio-economic issues that affect employment but fall outside of the scope of the LAB e.g. utility, fuel and tax increments, land issues, social unrest etc. The challenges in this Committee are similar to those of the LAB with regard to governance and the infrequency of sittings. The challenges are further exacerbated by the fact that the Committee is not provided for in any legislation but it is established through the Commission of Enquiry Act, 1963. It seems to have been established under pressure from the ILO, as a means for creating a mechanism to facilitate social dialogue, in the face of significant labour unrest in 2009-11 at the time of the global financial meltdown. There has been a lot of talk on establishing a structure similar to that of the RSA's NEDLAC but there has been no progress on same. This could likely address the other challenge of the duplicating and shuttling of issues between the LAB and the Social Dialogue Committee. The other challenge is that the same people who sit in the LAB are the same who sit in the Social Dialogue Committee. An easier solution could be to simply extend the powers of the LAB to deliberate on socio-economic issues.
The ***immigration Act*** covers procedures for obtaining work permits for non Swazi citizens due to the ***"localisation" policy***. Skills shortages, however, necessitates the need for foreign workers to fill skills gaps. The policy requires that	The regulatory outcome of this policy leads to increases skills shortages and difficulties for companies to fill key technical and related positions that affect productivity and competitiveness.	**The Immigration Act, 1980**	Ministry of Labour	**The Immigration Entry Permit Committee (IEPC) and the Training & Localization Committee (TLC).** The Immigration Entry Permit Committee comprises of representatives from the Ministries of Commerce, Industry and Trade (MICT), SIPA, Home Affairs and of Labour and Social Security. It meets on a weekly basis to consider applications of work permits.

newspaper adverts be place which is a frustrating process as 6 out of 10 applications are declined. The policy is counterproductive to creating an investor friendly climate and enabling environment				Those applications of work permits that require further investigation are referred to Training and Localization Committee (TLC) for their input before being finalized. The TLC is under the Ministry of Labour and it comprises of representatives from Government and the worker and employer federations. It generally conducts workplace inspections to investigate whether or not expatriates are necessary in a particular establishment and what plans have been made to train locals to prepare them for taking over the expatriates' positions. Such initiatives while noble are sometimes taken too far by both Government and the workers to the detriment of investments by locals and foreigners. In this regard, work permit applications are regularly turned down. In other countries within SADC, foreign companies would be allowed predetermined quotas of work permits based on their level of investment. The overzealousness of the local committees may also be one of the reasons why Eswatini is rated as one of the lowest attractors of FDI in Africa.
Commercial law policies. The constraints in this area are not policy related but rather inefficiencies and mismanagement of the judicial system that has led to a vast backlog in commercial court cases. The Court is established by the Industrial Relations Act, 2000. The challenge with this Court is the huge backlog of cases pending before it. Cases currently on trial date back as far as the early 2000's. By the time the case goes to trial witnesses may have died or relocated. Companies may have closed down.	The enforcement of employee, commercial, trade, agency, distribution and related commercial contracts are areas of concern especially for larger foreign owned companies. The reason is a backlog of 956 days in getting cases to court affecting companies' ability to resolve commercial contract disputes in a timely manner with financial implications. The time delays lead to increased cost of doing business and loss of income in some instances. The status quo is not conducive for international investment and complicates commercial processes. There is a need for capacity building in the judiciary system. The challenges of the Industrial Court have been further exacerbated by the vacuum in administration. The Judge President of this Court had been on suspension since 2010, when he	The constraint does not relate to any particular legislation but rather to the following: • Backlog in commercial cases serving in court • Outstanding judgements that can take up to five months Insufficient number of courts and judges. (there are 10 judges in Eswatini) • Efforts are being made to establish temporary courts and speed up the process of getting cases to court	Ministry of Justice	

	was arrested for an offence he had allegedly committed whilst he was still in private practice. He was only acquitted in February 2018. His case just only demonstrates the harm that is caused by our very slow judicial system.			
Although it is not an official policy, there is bureaucratic procedures and red tape by the Central Bank around the repatriation of company profits and dividends. The constraint is reflected in delays for approvals of applications by the Central Bank for transfer of funds.	Time delays of up to 4 months for approvals to transfer funds are reported creating frustrations amongst foreign investors. Even transfers of salaries to families of approved foreign workers who have work permits are delayed creating financial strain for family members	The Central Bank of Eswatini (CBS) is established and incorporated in terms of the provisions of The Constitution of the Kingdom of Eswatini Act, 2005 and The ***Central Bank of Eswatini Order 6/1974*** (as amended). In terms of both pieces of legislation, the Bank's operating organs are also established, these being the Office of the Governor as Chairman of the Board as well as Chief Executive Officer appointed by the Head of State for a period of 5 years.	The Central Bank of Eswatini (CBS)	The Federation of Eswatini Employers and Chamber of Commerce (FSE&CC) in performing its mandate as outlined above. FSE&CC need reinforced dialogue supported by European Chambers of Commerce to make CB aware that repatriation of profits and dividends is cornerstone for FDI.

The table above lists the main set of legislative and policy constraints and highlights the outcomes on private sector development, the enabling environment of doing business and competitiveness. However, in conclusion the most important investment barriers and challenges for Eswatini from a legislative and policy perspective and recommended remedial actions are:

1. The Competition Commission Act and related policies
2. The Companies Act and related policies
3. The Income Tax Act (SRA) and policies applied
4. Employment and Industrial Relations Acts
5. Immigration Act (Work Permits)

The structures outlined in the mapping table above involved in dialogue and advocacy to address problematic legislation, policies and regulations and ***in particular the FSE&CC***, should be supported by the EUD to reinforce, facilitate and reinvigorate a more structured dialogue between the GoS and the Chambers of Commerce. The FSE&CC is tasked with advocating and lobbying the GoS and is **the** key organisation to be supported moving forward to effect policy changes. This can be achieved through the linkages already facilitated with the European Chamber and bilateral Chambers of Commerce in South Africa by utilizing their considerable experience and practices applied in dialogue and advocacy. The following actions are proposed to be initiated by the EUD to reinforce dialogue:

- Strengthen the FSE&CC in its on-going dialogue efforts through establishing a working group consisting of EU Chamber of Commerce and bi-lateral Chambers of Commerce in South Africa, the EUD and FSE&CC in Eswatini.
- Get the working group to jointly review trade and private sector development bottlenecks and prepare adequate responses to improve the business and investment climate.
- Use the working group to add 'clout' and impetus to lobbying and educating GoS legislators
- Develop a lobbying / advocacy plan (building on the FSE&CC's strategic plan) with the above partners to engage with Ministries on policy and regulatory reforms.
- Facilitate renewed intensified discussions by the working group with the relevant Ministries for policy and regulatory reforms.
- Request the EU and Member State Chambers of Commerce to assist in preparing position papers (based on their experience in this field) outlining the background to existing policies, its impact on private sector development and FDI and propose alternative polices with motivations and outline of the impact of revised policies to reach desired state of affairs.
- Engage experts on specific policies such as renewable energy to explain the impact of present policies and/or regulations and motivate concerns where necessary.
- Initiate the write-up of fact sheets on the impact of existing policies and effects on private sector development including statistics and facts to hand to legislators.
- Support the FSE&CC to write short editorials for newspapers to explain and support lobbying and advocacy issues with government.
- Obtain "testimonials" from affected parties and testify in lobbying meetings or luncheons with relevant Ministries.
- Fast track the review of the Competition Act, policies and regulations to result in increased predictability, efficiency and effectiveness of the Commission and address the punitive measures applied by the Commission. Through the amendment, businesses will be clear on their rights and obligations and also on their role in promoting a competition culture.
- Present a case for non-payment to Government service providers to be made an offence and a contravention of PFMA

2.2 Impediments to investment in Eswatini

While the Government of Eswatini reportedly continues to work to develop and improve investment and trade policies, in particular to facilitate ease of doing business in the country several impediments remain. The Eswatini Investment Promotion Authority (SIPA) is charged with designing and implementing strategies for attracting desired foreign investors and is working to become a "one-stop-shop" for foreign investors but it is not there yet.

Eswatini offers a number of comparative advantages for potential investors, including reasonable labour costs, positive labour relations, relatively high education levels, increasing efforts for access to finance, and good physical infrastructure. Wage rates in Eswatini are close to the other middle income countries but remain lower than in neighbouring South Africa. Likewise, labour relations in the kingdom are generally not contentious and dispute resolution works well. Eswatini's physical infrastructure is on-par or better than that of other regional countries, however, a number of impediments to investment remain linking up with the legislative, regulatory and policy issues.

The Jobs and Growth Compact[8] states that the overall constraints to jobs and growth in Eswatini relate to: the fiscal and macro-economic context; the land management system; the lack of market knowledge and entrepreneurial skills, and the limited opportunities to access financing. Key reforms to improve the business environment entail: introduce clarity on investment policies; further develop trade facilitation; facilitate the transition from subsistence to commercial agriculture; develop the access to business development services and concessional finance.

The ability of the private sector to be more competitive and to generate jobs is constrained by several key obstacles. Key documents such as the Economic Recovery Strategy (2011), the Investor Road Map(2005 and 2012) and the Private Sector Development Strategy (formulated by the FSE&CC in 2011) frequently cite and confirm the above priorities.

The ease of doing business 2018 report[9] ranks Eswatini 112th out of 190 countries for overall ease of doing business which is down from its 2017 and 2016 ranks and below the ranks of neighbouring economies Lesotho, Botswana, Namibia). The World Economic Forum Global Competitiveness Report[10] 2017/18 ranks Eswatini 122nd out of 144 countries in 2016. The World Economic Forum's 2013 Travel and Tourism Competitiveness Index (TTCI) rank Eswatini[11] 119 out of 140 countries. The World Bank worldwide governance indicators[12] ranks Eswatini in the lowest 3 quintiles for institutional accountability, government effectiveness, regulatory quality, rule of law and highlight a degrading performance on control of corruption. These indices give a partial, yet indicative impression of the extent to which Eswatini's regulatory environment needs be further improved to facilitate private sector activity.

Compared to other small middle-income economies and countries in the region, and based on feedback from private sector, the issues that are most constraining business development are:

- Entrepreneurs cannot easily access policy information and face a complex landscape of regulations, policies, institutions to start or develop a business, many cannot obtain registration or other administrative documents in a reasonable time without giving a bribe

[8] Jobs and Growth Compact
[9] http://www.doingbusiness.org/en/data/exploreeconomies/Eswatini
[10] https://tradingeconomics.com/Eswatini/competitiveness-rank
[11] www3.weforum.org/docs/WEF_TT_Competitiveness_Report_2013.pdf
[12] nfo.worldbank.org/governance/wgi/

(World Bank 2016 enterprise survey noted an uptick in corruption and 18% of firms indicated corruption as the biggest obstacle in their daily operation);

- Interactions with administrations for tax or payment matters are not business-friendly with high corporate tax rate and hefty non-compliance penalties applied without giving businesses a chance to justify they are operating legally; procedures to get legally authorised VAT refunds recognised are long; Government delay payment to suppliers as soon as SACU revenues are used up;
- Markets are not very transparent nor open, e.g. the Procurement Act bans companies owned by civil servants to compete for tenders, but a number of companies are transferred to family members to go around this provision; some sectors are not open to tenderers' competition (for example only one company prints school's manuals paid for by Ministry of Education); lack of information on prices or market-places discourages the development of commercial approaches (such as farmers producing livestock);
- The small size of the economy creates challenges for businesses; local products are often out-priced by cheaper products and greater reliability of supply from external markets (e.g. the top restaurant in Mbabane imports all its products from South Africa); limited domestic inputs necessitate relying on imports which increase overheads; the slow growth in the domestic economy limits profitability; the local banks are risk adverse and limit available capital in the domestic market to finance investment; the lack of competition for ICT services (only two mobile phone companies, only one internet provider) leaves business to cope with limited bandwidth and high network usage costs, similarly business are fully dependent on SEC to get grid connection sometimes with months delay.

Apart from the regulatory barriers listed above, the dominance of public sector or national funds into the economic sectors; the difficulties to invest under the land tenure system, the long and uncertain delays in the adoption of new policies and laws even if they affect investments (like it happened for bills to amend Acts about intellectual property and innovation, to establish special economic zones, to establish new land management approaches, etc.) the business impact of HIV, the lack of higher/vocational education and training and the disconnection between wages and productivity dynamics makes Eswatini less attractive than other economies.

2.3 Analysis of elements relevant for the EU to concentrate on

The SADC-EU-EPA[13] that Eswatini signed and ratified in 2016 has created duty-free quota-free access for all tradable products from Eswatini to the EU. The EPA matches the Government and stakeholders' interests to integrate further in regional and global value chains, diversifying products and markets for exports from Eswatini. The country EPS implementation approach aims to foster sectorial and industrial value chains; strengthen legal and institutional framework for trade remedies and build institutional capacities.

The EU is aiming to unlock key constraints to jobs and growth in Eswatini by improving the policy and regulatory framework for private sector development in general and for the development of the three key value chains (Sugar cane, Horticulture and Livestock) in the context of the SADC-EU-EPA. The EU intervention for growth and jobs therefore integrates:

- Mobilising political, policy dialogue and operational cooperation to promote policy reforms where business needs it urgently (some key policy reforms are needed to facilitate commercialisation of agriculture and to develop business support services);
- Developing skills and entrepreneurship and opportunities for the youth as business / entrepreneurship culture and skills are under-developed, youth unemployment is not explicitly targeted by policies and strategies;

[13] https://www.pressreader.com/Eswatini/swazi-observer/20161202/282003262040181

- Improving access to investment: access to investment is difficult for small holder farmers, for MSMEs and the fiscal policy framework is not geared to support MSMEs growth or to promote investment. The EU is improving access to investment directly with its Cooperation Programs align to Eswatini National Agricultural Investment Plan (SNAIP), as well as indirectly by encouraging foreign public and private investors to link up with Eswatini businesses and value chains;
- Developing the capacities of Eswatini stakeholders to manage the major risks to Eswatini growth and business development (e.g. the EU support is improving governance and public finance management capacities to reduce fiscal crisis risks; improving stakeholders' capacities to address land management challenges and climate change related risks; developing the coordination of development partners to enhance aid effectiveness, etc.
- Investing in cross- border trade facilitation and integration in regional value chains, in order to build on the existing strength of Eswatini.

In addition to specifically develop the three key value chains (sugar, horticulture and livestock) the EU approach integrates[14]:

- Supporting agricultural production on a commercial basis through formation of farmer's companies trained in business methods and supported with initial investments. (SWADE is already active in this area);
- Developing significantly the marketing and access to local regional, and international markets in the context of the SADC-EU EPA;
- Develop the entrepreneurship skills of smallholders, the youth, woman and foster policy reforms standing in the way of their entrepreneurship;
- Linking up strongly the implementation of all instruments managed at the Delegation level (Budget-Sugar and EDF11, thematic contracts) with the Trade facilitation intervention;

Looking ahead to the period up to 2020 and taking into account the opportunities created by EPA implementation, the External Investment Plan and the programming in 2018 after the mid-term review exercise, the EU will consider strengthening this integrated approach for jobs and growth by looking into the possible following actions:

- Reinforcing the high-level political dialogue on developing a macro-economic and fiscal framework balancing the needs of domestic resource mobilisation with the needs to foster growth and jobs;
- Creating even closer links between national political dialogue and operations with high level political dialogue and operational work at regional level (SADC and COMESA) in order to enable Eswatini to benefit further from the opportunities created by the EPA framework and facilitate the increased participation of the MSMEs in international trade;
- Developing contacts with Member States and Member States Chamber of Commerce and private sector representatives in order to identify niche markets, new opportunities for investment in the agricultural, manufacturing and services sectors, new instruments to strengthen access to finance- in the context of the Members States based in Eswatini;
- Developing advice to Eswatini stakeholders about how to access technical assistance facilities to adopt internationally acceptable trade and investment policies that enhance industrial growth and diversification;
- Developing the capacities of Eswatini stakeholders to submit economically viable proposals to funds and facilities suitable for facilitating investment in infrastructure essential to private sector SME development (notably the External Investment Plan, AfiF, the Green Climate Fund, other blending instruments);

[14] Jobs and Growth Compact

- Reinforcing the high level political dialogue and operational support to develop and implement a strategy to facilitate the employment and business development of woman and the youth;
- Developing the dialogue with the private sector beyond the current exchanges with the line Ministries, parastatals, private sector in the context of the Agriculture steering committee, EPA implementation working group, PFM steering committee, Sugar Adaptation Strategy steering committee where exchanges with the private sector and NGO are already taking place.

To develop such reinforced integrated approach, the EUD will build on implementing the current cooperation instruments available at Eswatini level, relate with regional cooperation instruments and seek to access to new facilities managed by the HQ or the External Investment Plan.

EU Involvement in Eswatini overview

The EU's cooperation strategy with Eswatini under the 11th European Development Fund (2014-20) is outlined in the National Indicative Programme 2014-20 for Eswatini[15]. The indicative allocation for the country is €62 million and focuses on the following areas: (1) Agriculture (€40 million); (2) Social protection (€15 million); and (3) Support measures (€7 million). The Country Strategy Paper for Eswatini (2008-2013)[16], which presents the strategic framework for the cooperation of the European Commission (EC) with Eswatini under the 10th European Development Fund (EDF), focuses on the promotion of human development through support to the health and education sector as well as on the improvement of water supply, sanitation and irrigation in order to improve living standards of the rural population. Additional activities focus on empowerment of local communities and good governance initiatives to improve the policies and institutions related to the rule of law, human rights and democracy. This is rounded up by measures to strengthen public finance management to ensure optimal use of available resources. Cross-cutting issues, in particular gender, HIV/AIDS, good governance, capacity building and environment have also been integrated in the majority of EC-funded programmes in Eswatini.

Status of EPA Implementation

The SADC-EU EPA in Eswatini is still in its infancy in terms of getting off the ground and although it has been introduced to the private sector through a presentation at FSE&CC it was done at a low key level leaving room for more aggressively introducing the EPA and its advantages offered to the private sector. Hence there is still a low level of awareness amongst the private sector on the EPA and the advantages it can offer for EU export development. The EPA implementation plan entails a comprehensive action plan outlining specific activities, support structures, indicative outcomes and allocation of responsibilities.

EPA framework actions developed by the EUD indicate the development of policies and strategies for implementation, raising private/public sector awareness on the EPA, establishing national implementation structures for EPA, the development of the EPA implementation strategy and developing a monitoring and evaluation tool with clear indicators for EPA implementation as tasks on hand for short and medium term completion. The implementation responsibility is allocated to the Ministry of Commerce Industry and Trade and Public Policy Coordinating Unit and there is no indication of private sector involvement in the action plan that needs to be reviewed.

[15] https://ec.europa.eu/europeaid/national-indicative-programme-Eswatini-2014-2020_en
[16] https://eeas.europa.eu/sites/eeas/files/csp-nip-Eswatini-2008-2013_en.pdf

3 BUSINESS/INVESTMENT PERCEPTION SURVEY OF THE ESWATINI INVESTMENT CLIMATE BY EU AND SWAZI BUSINESSES

The objective for conducting a survey was to test perceptions around the ease of doing business, current investment climate and factors contributing to non-competitiveness of the private sector. An unstructured questionnaire was used to conduct personal and telephonic interviews. The following aspects were tested:

- The 3 main factors making it difficult to do business in Eswatini
- Rating the investment climate i.e. as favourable, unfavourable or even 'restrictive'
- Factors impacting on and contributing to reducing the competitiveness of companies
- Test respondents perceptions if the investment climate is improving or worsening

The survey objective was to obtain a snapshot of the listed aspects above with a ***sample of 28 companies*** (listed in the appendices) ***equating to 11% of the FSE&CC paying members.*** *Eight of the respondents are in the agricultural sector and the balance representing the private sector in a variety of sectors i.e. financial services, retail, food processing, manufacturing and ICT.* Perceptions of FSE&CC management were also tested as representative of the private sector and dealing with impediments to investment climate on a daily basis. A 'restrictive' investment climate implies that barriers experienced actually restrict companies doing business rather than just impeding on and creating an 'unfavourable climate. The main findings of the perception survey were as follows:

- Sixty per cent (60%) of respondents are of the opinion that there is an unfavourable investment climate prevailing in Eswatini while 40% rate it as restrictive relating in particular to punitive measure applied by the **Competition Commission and SRA's** punitive tax regulations.
- Eighty per cent (80%) of respondents rate the ease of doing business as worsening while the other 20% rate it as staying difficult and unchanged. Reasons stated relate to for example the increasing difficulties in repatriating dividends, profits and even salaries of foreign workers in the country. The findings relate to bureaucratic procedures and red tape.
- Seventy per cent (70%) of respondents rate government related policies and regulations (for example Competition Commission interference, delays to get permits, labour law, transferring funds abroad, punitive tax regulations and land reform) as the main barriers making it difficult to do business in Eswatini, while 16% rate access to finance as the main barrier and 14% rate the smallness of the local market as main barrier to doing business. These policies and regulations relate to the Income Tax Act, Companies Act and the Competition Commission Act.
- Sixty per cent (60%) of respondents rate high electricity, communication and other government enforced costs as the main factor contributing to non-competitiveness; 16% rate the lack of skills as main factor, 16% rate the lack of market information as an inhibiting factor and 8% rate low productivity as the main aspect impacting on competitiveness.
- Eighty per cent (80%) of respondents are of the opinion that government officials at ground (execution) level do not always apply government policies and regulations as stated while 20% state they experience mixed messages in terms of policy and regulatory execution.
- There is consensus by all respondents (100%) that policies and regulations are not clearly communicated by government and often leads to confusion and also which Ministry to deal with as duties and responsibilities often overlap.

  Reinforced dialogue is required to fast track policy reforms, especially punitive measures applied by the Competition Commission and SRA, improve the connectedness between GoS and the private sector in Eswatini.

4 ASSESS AND PRIORITISE PROMISING SECTORS SUB-SECTORS FOR INVESTMENT BY EU BUSINESSES AND IDENTIFY RESTRICTIONS TO PRIVATE SECTOR INVESTMENT IN THOSE SECTORS

The local private sector is dual in most sectors of the economy with a few large-scale companies and a large number of small and often unstructured players particularly smallholder farmers companies in sugar, vegetables and livestock production. In terms of the TOR the following assessment is made of promising sectors.

4.1 Agriculture

In Eswatini the value chains with the highest potential in terms of job creation; increase in capacity, economic activity, local value added and attracting investments; and enhanced market access at local/ national level and increased exports[17],[18] (regional), towards EU market or global level identified in the Jobs and Growth Compact are:

- Sugar cane as the lead export crop and essential to the Swazi economy as its by-products offer opportunities to create new value, exports volumes and new employment creation.
- Horticulture and high-value crops to exploit Eswatini's competitive advantage in this area.
- Livestock as it is a major untapped opportunity for increased domestic production and exports.
- The jobs and growth opportunities related to these three key value chains have been recognised in the Eswatini Poverty Reduction Strategy and Action Plan[19].

Sugar Production

Sugar production by the Eswatini Sugar Association company has been a major source of employment and income in Eswatini since the 1980s, becoming the country's highest export earner in 2010, when the main wood pulp producer closed down. There are currently three sugar mills; Simunye and Mhlume run by the Royal Eswatini Sugar Corporation (RSSC), AND Ubombo Sugar Mill in Big Bend owned by Illovo Sugar Company[20]. The millers' estates provide more than half of the cane processed by the three mills. The mills and sugar industry as a whole have invested in excess of EUR150 million in plant expansion, upgrading of facilities for outbound logistics and energy efficiency projects over the past five years. Expanding small-holder production is key for the Swazi sugar industry to serve the greater demand for sugar cane from new markets like Asia or Middle East. There are currently 113 small-holder Farmer associations (FAs) of Farmer Companies (FCs) a term adopted to signify their emergence as producer organizations[21].

Although there was a continuous increase in area under sugarcane production, the drastic effects of the drought resulted in area harvested falling by more than 1,200 hectares in the 2016/17 harvesting season and some of the harvested cane was of a poor quality. The poor quality of the

[17] Jobs and Growth Compact for the Kingdom of Eswatini
[18] http://www.fao.org/africa/news/detail-news/en/c/887036/
[19] http://www.tralac.org/files/2012/12/Final-Poverty-Reduction-Strategy-and-Action-Plan-for-Eswatini.pdf
[20] https://www.iol.co.za/business-report/international/nsoko-msele-sugar-mill-project-to-rejuvenate-Eswatinis-vital-export-crop-1498499
[21] Business Survey Analysis 2016, EU support to the national adaptation strategy for the sugar sector in Eswatini, End of project poverty impact evaluation, 2017

cane was reflected in sucrose yields which fell by 12 per cent from 14.2 tons per hectare in the 2015/16 season to 12.5 tons per hectare in 2016/17 season[22].

The significant drop in sugar production resulted in lower sugar sales volumes in 2016/17. Total sugar sales volumes fell by 11.3 per cent to 621,164 metric tons in 2016/17 season from 700,017 metric tons in 2015/16. The drop in total sales was relatively lower than the fall in production due to high inventory stock from the 2015/16 season. Export sales destined outside the SACU market – predominantly to the European Union (EU) decreased by 20.8 per cent from 299,936 metric tons in the 2015/16 marketing season to 237,582 metric tons in 2016/17.

According to the Central Bank the medium term outlook for the sugar industry is mixed. Sugar production is expected to only grow by 4.3 per cent to 611,537 metric tons in 2017/18 season but more robust growth is expected in 2018/19 and 2019/20). The increase in production would also be buoyed by continuous investments through the Lower Usuthu Irrigation Project (LUSIP) projects facilitated by the Eswatini Water Agricultural Development Enterprise (SWADE) wherein an additional 6,000 hectares is envisaged for sugarcane production in the medium term. The sugar industry is heavily invested with little opportunities for EU investors.

Livestock – Cattle

Livestock, particularly cattle, plays an important role both economically and culturally and it is often the main capital reserve of many Swazi smallholders. Livestock holding takes place within three broad land tenure systems: (i) communally held Swazi Nation Land (SNL); (ii) privately held Title Deed Land (TDL); and (iii) publicly held government farms. The opportunity presents itself mainly on Swazi Nation Land (SNL) where 85% of the country's livestock is reared. Cattle as the main capital reserve of many smallholders offer major untapped opportunities for increased domestic production and exports as well as diversified development for the production, processing and marketing of beef. At present 50,000 cattle are slaughtered per year of which more than half are slaughtered at households and thus outside the regulatory framework. This implies that 25,000 cattle slaughtered is for home consumption or go in to the informal sector outside the regulatory framework, with no benefit to the GoS, without any hygiene certification or health controls. Investment opportunities for livestock development is at the beginning of the value chain and offer opportunities for investment in smallholder development offer limited opportunities to EU investors.

Meat Industry

Swazi Meat Industries (SMI) is the main player in livestock and licensed to sell in the domestic market and export. SMI operates the largest abattoir in the country. In 2014, SMI including other commercial slaughterers slaughtered 23,789 head of cattle (47% of total slaughtered and a 19% decline from the number of herd slaughtered in 2013). Around 90% of total meat sales went to the domestic market with remainder exported. Poor performance in the livestock sector is linked to poor animal husbandry practices and malnourished animals, vulnerable to disease[23].

Dairy Products

Eswatini imports a large percentage of its dairy products: of the approximately 81 million liters of liquid milk equivalents consumed, less than 15% is produced locally. With on-going new investments in milk production, it is expected that an additional 25 million liters will come to the local markets. Distance from the processing plant is considered to be a constraint to developing

[22] Central Bank Annual Report
[23] Ref VC4AD value chain study

the small-scale dairy sector. The Eswatini Dairy Board (a parastatal enterprise)[24] has supported the establishment of milk collection centers catering largely for small-scale producers.

Poultry

Large-scale producers dominate egg and meat production. Eswatini is virtually self-sufficient in eggs and poultry meat. The small-holders contribute less than 2% of egg production and around 5% of broilers processed, with 4.2% of meat output. In live sales small-scale producers supply over 50% of the market.

Forestry

The forestry sector contributes about 25% of the country's foreign exchange earnings. Montigny Investments Limited is largest private, diversified forestry and sawmilling company in Southern Africa; is 100% Swazi-owned, a turnover of E2 billion, employs 6700 direct and 11,600 in total, operations in Eswatini, Mozambique an South Africa. A few other private companies like Peak Timbers, Eswatini Plantations, Shiselweni Forest also produce mining timber and eucalyptus oil for exports. Significant positive growth was observed in the manufacturing of 'wood and wood products' mainly benefiting from investments made by forestry companies in selling diversified forestry products. There are opportunities for EU investors to invest in value added product development. In this regard a company like Montigny are looking for investment partners around beneficiation of timber products linked to their vast plantations.

Beekeeping

Beekeeping is well developed given the availability of forage throughout the year. Honey hunting is part of the Swazi culture and honey produced in Eswatini is of a very high quality. There are presently 1,107 bee keepers in Eswatini, keeping some 3,860 hives of bees. There are two major honey companies in Eswatini, four bee keeping associations and two plants to extract and process honey. A few local companies like Belembu are aiming to develop honey production as the local demand outstrips the current capacity (around 100tons produced annually); the honey production is hampered by the lack of labs and quality monitoring systems. For example the lack of an irradiation plant mean Swazi honey cannot enter South Africa, but it is worth developing it as it can employ a number of most vulnerable and low-skilled people.

Maize

Maize is the staple crop and around 80% of the rural population grow maize most often for domestic consumption but often also with poor yields and costly methods. The domestic production is insufficient to meet the national demand and the National Maize Corporation (NMC) has a monopoly for commercial white maize imports. The Minister of Agriculture and the Parliament temporarily increased the white maize meal importation quota per household in September 2017 to February 2017 in response to the drought. The 20kg limit to maize meal import is now back in effect.

Horticulture

[24] http://www.dairyboard.co.sz/about-us.php

The horticulture sector is growing increasingly involving small-holder farmers as the varying ecological zones allow for the production of vegetables, and baby vegetables throughout the year. The preferential access to the EU market through the SADC-EH EPA is also a strong driver of the potential growth of the sector. Presently exports are relatively small (for example small-holder farmers organised in farmer companies on 215 ha exported around EUR1,3 million in 2016 based on 3 month production)[25]. An increasing number of Swazi producers, like Sdemane Farms and Black Mamba, are directly exporting to the EU. There is large potential for import replacement as Eswatini import around 60% of its demand in vegetables from South Africa. The ***EU EDF11 High Value Crops and Horticulture program*** is particularly focused on growing such access to profitable markets. A horticulture project was identified offering and opportunity for EU investors to form a joint venture with the initiators of the project outlined under bankable projects.

A specific barrier holding back agriculture sector growth is the lack of access to funding for farmers without collateral (either because the farmer lacks title land to offer as a loan guarantee or the value of the land may be too low. SWADE with EU support has managed to facilitate access to finance for smallholder farmers through the creation of Farmer Companies in sugar cane production: the farmer lands, on SNL, are pooled and entrusted in a commercial entity that they hold shares in. SWADE has assisted over 100 farmer companies operating their own offices ranging from 9 members/shareholders on a 18ha farm to a farmer company of 650ha with 300 shareholders and turnover of SZL30 million per year. The entity undertakes all the commercial works and enters into sucrose supply contracts with the processors. This provides a guaranteed market and a partnership within the private sector that creates improved recognition of the smallholder participation in the value chain.

Smallholder Community Development (forestry) – Black Wattle invasion management

The project offers excellent investment opportunity to grow smallholder forestry operators (SME's) in the forestry sector, create employment, grow income potential and sustainable long term investment. The opportunity entails training local landowners to effectively and sustainably operate smallholder plantations of wattle. Presently Montigny is running a 200ha test unit and it is working well with smallholders earning 10 times their current income. The aim is to find the best way to manage the invasive wattle and boost livelihoods in the long term by offering training on land-use optimisation and smallholder forestry and ultimately purchase a higher quality, more lucrative timber from the communities. The process entails conducting an environmental assessment on each grower's land and designing a land-use plan with them to maximise the value and yields from their property. With the growing demand for Wattle, this program is one of the greatest potential income accelerators for Eswatini with some 50,000 ha available to expand the program requiring an estimated E1,5 billion (Eur100 million) investment. The opportunity is further enhanced through existing and potential market off-take agreements with Japan and other applications. The smallholder and SME development in this sector offer investment opportunities to EU investors in partnership with Montigny who is driving the initiative.

Other sector-specific constraints, needs and opportunities are outlined in the table below for agriculture:

[25] Eswatini Ministry of Agriculture report to Parliament 2017

Table 2: Constraints, Needs and Opportunities

Constraints / barriers	Needs	Opportunities
Lack of skills to develop more competitive products (e.g. in the flower production and processing food sector, a lack of engineers, technicians and expertise with experience in these sector; lack of workers trained in business development) Land management system: SNL land is not well irrigated as it is difficult to access loans for investing in irrigation, SNL is over grazed as management plans are not always developed or implemented; foreign and local investors are discouraged as there are discrepancies in the published policy about when commercial land can be allocated Constraints to trade: Crossing borders makes logistics expensive; local demand is mostly satisfied by South African imports; lack of information on markets; lack of export orientation; lack of market access Suboptimal investment; only part of SNAIP national strategy for investment in agriculture is financed and mostly from EU and other international players; existing agriculture infrastructure needs rehabilitation and adaptation to climate change	Development of sugar based value added products Development of key businesses strengthening value chains Integration in regional value chains (i.e. leather production) Increased establishment of cooperatives/ farmer producer companies to produce food for local markets Policy changes (Commercialization of land Bill pending; reforms of maize value chain to facilitate commercialization; reform of the sugar Act to facilitate the development of by-products and sharing the proceeds along the value chain) Better coordination of services and institutions for agri-business development e.g.. fragmented SPS service, trade facilitation spread between Ministry of Commerce, NMC, NAMBoard with no formal coordination	Flower production and exports Agro-ecological potential to develop high-value crops and live stock Existing businesses successful at producing and marketing high-value crops; experience of the sugar industry sector to facilitate small holder farmers commercial development; sugar sector organized and cost competitive Lower labour cost and greater labour stability Proximity to large market – South Africa and to Durban and Maputo ports New industrial parks / special economic zone open notably for ago-processing Investment in irrigation infrastructure on-going (LUSIP 11) enabling 30,000 smallholders farmers to move to commercial production SADC-EU EPA for export growth

Key Role Player in Agriculture Development: SWADE

The Eswatini Water and Agricultural Development Enterprise (SWADE) is a government company established by the Government of Eswatini in 1999 to facilitate the planning and implementation of the Komati Downstream development Project (KDDP) and Lower Usuthu Smallholder Irrigation Project (LUSIP) and any other large water and agricultural development project that Government may assign.

The three SWADE projects (KDDP, LUSIPI and LUSIPII) initially targeted to develop a total of 17 500 ha under irrigated agriculture have now reached 9 948ha. Land development has been done in two of the three projects, with LUSIP 2 still at the finance mobilization stage. SWADE intended to form 105 farmer companies and to date 91% of the target has been achieved. This is a significant increase from last year's 66%. A total of 1,174 people benefited through employment opportunities within FCs.

In 2016/17 SWADE's overall coordination and oversight grew to the current total of nine (9) projects. These are: Komati Downstream Development Project (KDDP), Lower Usuthu Smallholder Irrigation Project (LUSIP I), LUSIP II, Innovative Beef Value Chain Project (IBVCP), the High Value Crop and Horticulture Project (HVCHP), Fruit Tree Production and Marketing

Project (FTPMP), and the now complete LUSIP-Global Environmental Facility (GEF), otherwise referred to the Lower Usuthu Sustainable Land Management Project (LUSLM which led to the initiation of the Smallholder Market Led Project (SMLP) and the Climate Smart Agriculture for Resilient Livelihoods (CSARL).

An example of a SWADE project is the High Value Crop and Horticulture Project (HVCHP) which seeks to increase the contribution of the agricultural sector to poverty reduction in Eswatini by creating pro-poor growth, securing livelihoods of small holder farmers by providing them marketing opportunities and providing locally produced diversified food on the market. Another example is the smallholder market-led project/climate smart agriculture for resilient livelihoods (SMLP/CSARL) was designed following government's request to IFAD. The project aims at reducing poverty and food insecurity through an investment supporting increased agricultural production, productivity and commercialization of smallholder agriculture while maintaining a sustainable and resilient environment.

In summary the priority sectors in agriculture for private sector investment are:

Livestock - cattle (smallholder farmer development).

There are investment opportunities to increase head of cattle sold from 2 to 4 per farmer (through SME development) and thereby increase slaughtered cattle output from 50,000 to 100,000 carcasses per year and convert farmers from the informal to the formal sector.

Horticulture

The horticultural investment opportunities entail funding for domestic MSE investors to supply the local and regional markets and for European investors for export to Europe under EPA and for adding value to vegetables for further processing and packing. A domestic/foreign joint shareholding would be ideal to optimise market opportunities and capitalise on international horticulture technical expertise, capacity building and technology.

Community Development Project Smallholder – Black Wattle invasion management

The project offers excellent investment opportunity to grow smallholder forestry operators (SME's) in the forestry sector, create employment, grow income potential and sustainable long term investment.

4.2 Energy Sector

The table below provides a snapshot of key energy issues and factors in Eswatini

Table 3: Snapshot of the Energy Sector in Eswatini.

Factors	Evaluation
Ownership	**Electricity:** Eswatini's power is supplied and distributed by the Eswatini Electricity Company[26] (SEC, http://www.sec.co.sz), which was established by the Eswatini Electricity Company Act (2007). **Oil and Gas Market:** Eswatini has no known oil or natural gas reserves, and no upstream oil industry. The country's downstream industry is heavily dependent on fuel imports from South Africa. A number of private companies, including BP, Caltex, Galp Energia, and Engen are active in the oil product distribution sector in the country

[26] http://www.sec.co.sz/

Competition	The Eswatini Electricity Company currently owns a monopoly on the import, distribution and supply of electricity via the national power grid, as well as the majority of the country's power stations. There are also five private power stations. Almost 25% of energy used in the Kingdom has been supplied by self-generators in recent years. A reform of the energy sector was undertaken to reduce the monopoly of the utility, including the structural change from a board to a company in 2007. This established a regulatory body and preserved the state company as a more disciplined corporate entity. However, the introduction of new market-oriented structures into a system that has not previously supported them has been difficult.
Energy Framework	The legal energy policy and planning framework in Eswatini is controlled solely by the government via the Ministry of Natural Resources and Energy. They support the position that investment in energy and industrial development in a sustainable manner can eradicate poverty in the country. The Ministry also takes the lead role in oil sector management. The Government has stated clearly that rural electrification will continue to be a priority and efforts in that regard shall be led by the State. Energy is widely seen as a driver to achieving the Millennium Development Goals (MDGs). The main energy policy document is the National Energy Policy 2002, which is still in effect. The Ministry of Natural Resources and Energy is responsible for overall project planning under the policy, and co-ordinates with the National Development Strategy Unit to ensure the fullest benefit from its programs. The Electricity Act of 1963 was replaced in 2007 by both the new Electricity Act and the Eswatini Electricity Company Act. This created a regulatory authority for the electricity sector and the structural reformation of the national utility. The Electricity Act created the framework for independent power providers to enter the electricity sector, with licensing provided by the new regulatory authority; however uptake has been limited.
Energy Debates	The 2007 energy reform has raised some concerns, and the potential 'privatisation' of the energy market in Eswatini has raised some opposition, especially regarding the position of foreign investors. Feasibility studies are currently still being conducted as to the possibility of constructing a 1,000 – 2,000MW coal-fired power plant. Eswatini has considerable proven coal reserves of 207.6 million tons. The Eswatini Electricity Company is keen to exploit this reserve to improve energy security and enable the creation of an export market for electricity.
Role of Government	The Ministry of Natural Resources and Energy (MNRE) is the national energy authority. The Renewable Energy Unit is the division in the Ministry which oversees the activities of the Renewable Energy Association of Eswatini, whilst managing and promoting the development and use of sustainable energy. The **Energy Policy Advisory Committee** is responsible for advising the Ministry of Natural Resources & Energy (MNRE) in decisions taken in connection with policy formulation. The **Energy Department of the Ministry of Natural Resources & Energy** is the custodian of policy and operational activities pertaining to the energy sector. Its mission is to effectively manage the national energy resources and to work towards affordable and sustainable energy provision for all the people in the country, whilst ensuring the international competitiveness of the energy sector.
Government Agencies	Other government departments involved in energy policy development functions include: • The Ministry of Finance • The Eswatini Environmental Authority (SEA) http://www.environment.gov.sz • The Fuel Pricing Committee.
Energy Procedure	The Ministry of Natural Resources and Energy (MNRE) is responsible for overall policy planning. The Ministry's main policy document is the National Energy Policy 2002. They completed a comprehensive implementation strategy for the National Energy Policy, with the assistance of the European Union (EU), under the European Union Energy Initiative (EUEI) on Poverty Alleviation and Economic Development, in partnership with European Union Partnership Dialogue Facility (EU PDF). This National Energy Policy Implementation Strategy (NEPIS) project commenced in July 2007 and was completed in October 2009. The policy recommends programs for liberalising the energy markets and the expansion of access to energy services for the poor. In essence, the policy acknowledges that addressing poverty alleviation for sustainable energy means finding technological and institutional innovations that can lower the costs of obtaining and using energy services. The National Development Strategy Unit (NDS) is the main overall planning department. The NDS consolidates all programmes aimed at achieving the National Vision.

	The MNRE has formulated a strategic framework and action plan with regards to renewable energy development in the country. The main development points are to: • Develop a renewable energy information programme that will establish and maintain an appropriate renewable energy information system, • Establish a centre for demonstration & education on renewable energy and sustainable energy. • Encourage and enhance topics on renewable energy and energy in general in educational and training curricula. • Maximise the use of renewable energy technologies wherever they are viable. • Promote greater understanding and awareness of renewable energy resources and the associated technologies. • Develop and maintain accurate renewable energy resource data and make it available to all, so as to make informed policy decisions regarding sustainable energy use and supply. • Develop woodlots in areas where there is an acute fuel wood shortage. The Government is engaging in a pre-electrification program with solar home systems (SHS), in collaboration with the Eswatini Electricity Company. It will involve the evaluation of private sector participation and identify possible areas for co-operation in the marketing and distribution of SHS. The SEC will evaluate the technical, financial and operational feasibility of offering solar home systems in lieu of the main electrical connections, as well as enlightening the public on how the two technologies complement each other.
Energy Regulator	The Eswatini Energy Regulatory Authority (SERA, http://www.sera.org.sz) was established by the Energy Regulatory Authority Act of 2007. The Act establishes the Authority as an independent corporate body, with the power to sue and be sued in its own name.
Degree of Independence	The regulatory body is qualified as independent. The Chairman, Deputy Chairman and CEO of the Board of the Authority are appointed by the Minister of Natural Resources and Energy. The Board consists of no less than three and no more than five members, one of whom must represent the Ministry of Finance. Funding for the Authority, as of 2009, was derived solely from the Government.
Regulatory Framework	On the 1st of March 2007, the Electricity Act of 1963 was repealed, as a result of the promulgation of the Electricity Act of 2007 and the Eswatini Electricity Company Act of 2007. The Electricity Act of 2007 provides for the regulation of the Electricity Supply Industry in Eswatini. It gives provisions for the regulation of generation, transmission, distribution and supply of electricity in Eswatini.
Regulatory Roles	The following powers and functions have been given to the Eswatini Energy Regulatory Authority (SERA): • Receive and process applications for licenses, and modify/vary licenses. • Approve tariffs, prices, charges and terms and conditions of operating a license. • Monitor the performance and the efficiency of licensed operators. SERA is also charged with setting standards for the quality of supply and service, as well as encouraging the development of an industry-wide set of standards and operating codes of conduct.[
Energy Regulation Role	The Ministry of Finance, the Eswatini Environmental Authority (SEA), the Fuel Pricing Committee and the Renewable Energy Association of Eswatini (REAWSA) also play important roles in the regulatory process.
Regulatory Barriers	The main identified barriers (regulatory and others) include: • Difficulty of mobilising funding for investment, which can lead to severe delays in project implementation. • The small size of the local energy market. • Limited natural resources. • Diminishing power capacity in the Southern African region. Eswatini imports the bulk of its commercial energy from neighbouring countries. The high costs of renewable energy technologies, and the fact that investment flows are still insufficient, are major barriers to project implementation.

Although the energy sector is small it has great potential to grow but is not happening at the desired rate. The Eswatini Electricity Company (SEC) imports over 80% of its electricity needs from South Africa and uses 4 hydroelectric plants owned by SEC with a total generation capacity of 60MW for peak and emergency power. Eswatini's electricity use is 232mw at peak demand and 150MW at the lowest demand level. In terms of the National Energy Policy (NEP) 50% of

energy must be generated locally from renewable energy sources by 2022 through Independent Power Producers (IPP).

Presently there are two IPPs namely Uhubombo (part of Ilovo Sugar) that feed 12MW into the grid with a biomass operation using bagasse and wood chips. Wundersight is the other operating a solar energy IPP generating 87KW that is currently being expanded to 850KW through SIDC funding and the plan is to expand further to generate 25MW if funding can be secured.

On a positive side, through Individual Power Producers (IPPs) arrangements, there was an additional 0.11 GWh power produced through a solar plant in the Lubombo region in 2016/17. Total electricity consumption, measured in volume unit sales, dropped by 2.4 per cent to 1,058.4 GWh in the 2016/17 from 1,084.1 GWh in 2015/16. Despite the fall in local generation, electricity imports were slightly lower at 1,063.7 GWh in 2016/17 from 1,077.1 GWh in 2015/16.

Electricity generation is forecasted to increase by 30 per cent in the 2017/18 financial year. Power generation would also be impacted positively by collaboration between SEC and IPPs. Planned projects include solar energy stations and more hydro-power stations. On a longer term though, SEC plans hinges on the proposed thermal power plant envisaged for production of about 300 MW.

European investors are particularly interested to develop the latent renewable energy potential of the country: for instance the Spanish company **Wunder Sight** has invested EUR300,000 (SZL5 million) in a pilot solar farm of 100kw connected to the grid, aiming to demonstrate the feasibility of investing in a planned 25MW solar farm project in Eswatini[27].

Table 4: Energy Constraints, Needs and Opportunities

Constraints / barriers	Needs	Opportunities
Difficult to mobilise investment leading to delays in implementation Small size of the local energy market Over dependence on electricity imports (South Africa supplies roughly 80% of Eswatini's electricity) Lower electrification rates in rural areas, affordability constraints	Mini-micro hydropower electricity schemes – 35 sites already identified Reforms to the sugar act to exploit the bio-energy potential (ethanol, bagasse based electricity) Energy efficiency Solar and wind potential needs further exploration	New (2007) Electricity Act and SEC Act allow for independent Power Production New Regulator – Eswatini Energy Regulatory Authority

One of the most promising sectors for investment by EU investors is in renewable energy to contribute to making Eswatini an independent power producer. Opportunities in biomass renewable energy look especially promising.

4.3 SME Development

SMMEs are widely accepted as a significant driver of GDP and the primary job creator in most economies, whether emerging or advanced. A number of studies including the National Development Strategy (NDS)[28] have identified factors which undermine a strong SMME growth vector including: excessive red tape; proposed labour regulations; inability to access finance; skills challenges; lack of business support; and access to markets. SME development cuts across all industry sector and are covered under the two other priority areas of agriculture and energy sectors.

[27] Job and Growth Compact
[28] http://www.snat.org.sz/New%20Page/The-National-Development-Strategy.pdf

Role Players in SME Development

SEDCO (Eswatini development Company) is presently the key SMME development agency to develop, support and promote small enterprises to ensure their growth and sustainability and for providing business support services. However, the reality is that SEDCO is financially seriously hampered and insufficiently funded rendering it to mainly assist with company registrations rather than proactively engaging in SMME development. Although a large per centage of SMEs fall in the informal sector there is huge need for SME business support services. In addition there is no entity with the mandate to provide access to finance to Survivalist, Micro, Small and Medium businesses in order to support their sustainability.

Technical assistance and capacity building is required not only at SEDCO but also at FSE&CC to introduce business support services and growing the number of institutions providing business support services to SMMEs based on European Chambers of Commerce's best practice small business support services. SWADE performs business support services in the agricultural sector for smallholder farmers and groups of farmers in irrigation areas under their auspices.

The SEDCO is a category "A" public enterprise under the Ministry of Commerce, Industry and Trade established in 1970 to awaken, promote and support entrepreneurial talent with a vision and prime focus to create jobs and sustainable employment within the Small, Micro and Medium Sized Enterprises (SMME's) and thus make meaningful contribution in the larger socio-economic development of the country. SEDCO has an MOU with the EU in place, however due to under funding by government SEDCO is operating on a shoe string and only 3 of its 10 branches across the country are operational. According to staff SEDCO engaged with 900 MSMEs during Jan to March 2018 indicative of the huge demand for business support services.

The PSDS recognizes that sustainable economic growth can be attained if wealth is created at household level and domestic enterprises participate significantly in the economy. Therefore, there is a strong case for specific interventions to directly promote the growth of SMMEs in addition to reforms in the enabling environment. For this reason, SMMEs should be promoted to complement foreign direct investment in creating employment. In addition to employment creation, SMMEs stimulate private ownership of wealth and can contribute to economic diversification, international trade and poverty reduction. The PSDS's listed SME development objectives are improved business development services; creation of incentives to encourage linkages between large companies and SME's; strengthen business management training for SME's and develop mentoring programs for SME's.

5 BASED ON THE PROPOSED INVESTMENT PROGRAMMES (PIPS), EXPLORE INVESTMENT OPPORTUNITIES AND USE OF THE EFSD GUARANTEE BY PRIVATE SECTOR STAKEHOLDERS

We identified the following potential investment opportunities and use of the EFSD guarantee by private sector stakeholders (based on the proposed EFSD PIPs[29]) taking into account priorities identified in the Jobs and Growth Compact i.e. focussing on value chains with the highest potential in terms of job creation, increase capacity, economic activity, local value added and attracting investments, enhanced market access and increased exports and mostly on energy, agriculture and SMEs windows.

5.1 Agriculture

5.1.1 Opportunity 1: Livestock – Cattle

Livestock, particularly cattle, plays an important role both economically and culturally and it is often the main capital reserve of many Swazi smallholders. Livestock holding takes place within three broad land tenure systems: (i) communally held Swazi Nation Land (SNL); (ii) privately held Title Deed Land (TDL); and (iii) publicly held government farms. The opportunity presents itself mainly on Swazi Nation Land (SNL) where 85% of the country's livestock is reared. Cattle as the main capital reserve of many smallholders offer major untapped opportunities for increased domestic production and exports as well as diversified development for the production, processing and marketing of beef.

Presently the national cattle herd is below 500,000 (pending Minister of Agriculture's latest census) down from 620,000 before the drought and Eswatini is now a net importer of cattle. The main challenge is cattle are kept for wealth and investment purposes rather than for cattle production. There are 40,000 registered cattle farmers on SNL and an estimated 55,000 households. Cattle farmers on SNL hold an average of 10 heads of cattle each while only a small number of +-50 farmers have herds of 100 or more. At present 50,000 cattle are slaughtered per year of which more than half are slaughtered at households and thus outside the regulatory framework. This implies that 25,000 cattle slaughtered is for home consumption or go in to the informal sector outside the regulatory framework, with no benefit to the GoS, without any hygiene certification or health controls.

Eswatini Meat Industries (SMI) purchase 2 to 3 cattle per year from between 2,000 to 3,000 farmers. SMI assist the farmers through funding feedlots and assisting with technical support on breeding and feedlots. SMI has only purchase 7,500 to 10,000 carcasses per year that qualify for export to Europe and have to import another 5,000 carcasses from South Africa to supplement their supply. There is an opportunity for import replacement and saving of E51.7 million per year based on 5,000 imported carcasses with an average slaughter weight of 235kg per carcass and cost of E44/kg.

SMI exported 25% of its production to Europe (deboned primal cuts i.e. rump and fillets) until the Buffalo disease debacle caused a sharp decline in exports. The opportunity further presents itself in improving the way cattle are cared for and fed and changing mind-sets to allocate a larger percentage of borne calves to feedlots and increase cattle for slaughtering rather than building the size of herds. For example if the present average number of 2 to 3 head of cattle being sold per farmer be increased by just one head of cattle the immediate impact would be an additional 40,000 slaughtered cattle coming into the market per year. It would eliminate the need

[29] https://ec.europa.eu/commission/sites/beta-political/files/efsd-gurantee-window-msme-financing_en_0.pdf

to import carcasses from South Africa saving of E51.7 million per year in the case of SMI alone who import 5,000 carcasses.

It is necessary for the present 25,000 cattle being slaughtered and taken up in the informal sector to be converted and taken in by the formal sector, add value and increase exports. For this purpose new investments are required in upgrading / establishing butcheries and Municipal Abattoirs that will create new employment opportunities, assure a more regulated framework, create revenue generation opportunities for government not presently taking place and enable increased exports to existing and potential new European markets under the SADC -EU EPA.

5.1.2 Opportunity 2: Horticulture

Eswatini has a favourable climate for horticulture production and has a wide range of micro climates conducive for year-round vegetable production and in particular tomatoes, carrot, beetroot green pepper and butternut which is mostly imported from South Africa. Apart from export opportunities there is sufficient market demand in the local market through import replacement. The EU is currently supporting under two programs that are developing horticulture and high-value crops to enable Eswatini and Swazi smallholders to benefit from market opportunities established through NAMBoard exporting to regional markets mainly South Africa.

Retail shops are also working with NAMBoard to source produce from local farmers that meet quality standards. Purchases from retailers is increasing E48 million in 2016 from E21 million in 2015 and exports increased from E102,000 in 2015 to E800,000 in 2016. The development of the horticulture sector is in line with GoS development priorities and responds to the Poverty Reduction Strategy and Action Plan (PRSAP) which aims for increasing agriculture production and productivity on SNL through improving access to land, increasing income from agriculture, employment creation and SME support.

The present EU support to the horticulture value chains is also aligned with Eswatini National Agricultural Investment Plan (SNAIP) that promotes sustainable natural resource management and improved access to markets and value chains. SNAIP is an initiative aimed at increasing investments to the sector to help drive agriculture growth for food security and economic transformation for the Eswatini economy based on the period 2015-2025.

There are horticultural investment opportunities for funding of domestic SMEs to supply local and regional markets and for European investors for export to Europe under the SADC -EU EPA and for adding value to vegetables for further processing and packing. A JV of domestic/foreign shareholding would be ideal to capitalise on regional and European market opportunities and capitalise on international horticulture technical expertise, skills development, capacity building and technology[30]. The EU intervention to support the horticulture value chains is geared to address trade and marketing challenges, poor linkages between financiers and producers as well as uncoordinated production and supply arrangements. This situation leads to a top restaurant in Eswatini purchasing all its meat, fruit and vegetable requirements from South Africa due to reliability of supply rather than quality or price[31].

5.1.3 Opportunity 3: Smallholder Forestry - Wattle Invasive Management

The opportunity entails training local landowners to effectively and sustainably operate smallholder plantations of wattle. Presently Montigny is running a 200ha test unit and it is working well with smallholders earning 10 times their current income. The aim is to find the best way to manage the invasive wattle and boost livelihoods in the long term by offering training on land-

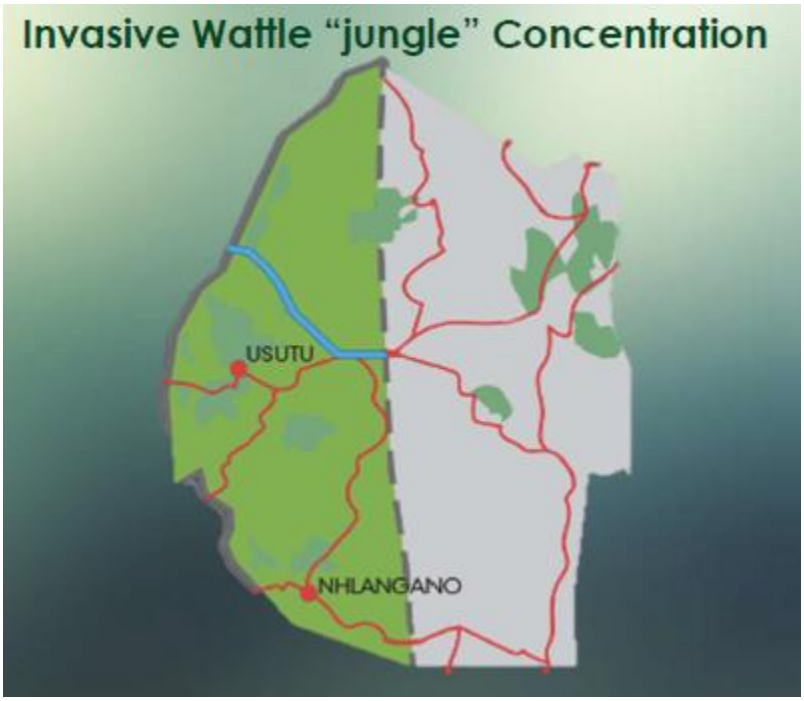
[30] https://openknowledge.worldbank.org/handle/10986/12768?show=full

[31] Jobs and Growth Compact

use optimisation and smallholder forestry and ultimately purchase a higher quality, more lucrative timber from the communities. The process entails conducting an environmental assessment on each grower's land and designing a land-use plan with them to maximise the value and yields from their property.

- For example, commercial stand, domestic use, clean water ways, clear land for grazing or planting;
- An interest free loan incentivises the land owner to kick-start rehabilitation, paid back upon harvest;
- Caution taken not to incentivise a greater environmental problem than exists today;
- Program management has the potential to greatly improve Eswatini's land, with the following benefits:
  - ✓ Water conservation
  - ✓ Fire prevention
  - ✓ Reducing present pressure on indigenous flora and
  - ✓ Creating jobs

The present Wattle landscape is outlined in the map below.



The history of invasive Wattle is as follows:

- It is native to Australia
- Introduced to SA in 1850's
- State gave 300 million seeds in 11 years
- In 2010 465,000 ha of forest was affected by black wattle

In terms of the opportunity community members can be trained as smallholder forestry operators and the benefits to the grower is that a rehabilitated Wattle Jungle can earn over 10 times its original standing value. Montigny's present support package for the smallholder forestry program entails the following:

- Training
  - Technical Forestry
  - Environmental factors to consider
  - Record keeping
  - Business management
- Interest free loan
  - An interrest free loan to cover part of the rehabilitation costs
- Guaranteed buyer
  - Montigny guarantees to purchase the Wattle at maturity

The benefits of the smallholder forestry black wattle management program entails:

- Takes action on controlling an evasive crises
- Optimises land use
- Reduces fire risks
- Creates a far more productive plantation
- Avails more groundwater
- Reduces grazing pressure
- Protects indigenous flora
- Keep waterways and grazing lands clear
- Yields biomassin the form of waste
- Creates jobs

The tools used to manage the program includes the following:

- Drone footage
- Satelite imaging
- GPS mapping
- Participant and pipeline database
- Community leadership involvement
- Legal contract

- Programme economics:

With the growing demand for Wattle, this program is one of the greatest potential income accelerators for Eswatini with some 50,000 ha available to expand the program requiring an estimated E1,5 billion (Eur100 million) investment. The opportunity is further enhanced through existing and potential market off-take agreements with Japan and other applications such as:

- Japan for Paper Pulping
- Silicon Smelting
- Sugar Mill Biomass
- Leather Tanning
- Power Production

The economic value of Wattle from the pilot programme data is outlined below.

Table 5: Economic value of Wattle

Income potential			
Hectares	1	3	8
Value to the land owner before rehabilitation	E1200	E4000	E8000
Rehabilitated Wattle Plantation value (4 year growth period)	E13000	E41000	E56000

Impact of Project:

Table 6: Impact of Wattle Smallholder Farming

Scale of present Pipeline	Up-scale custom training	Capital Challenge	Youth Engagement
250 Farmers contracted	50% increase in women's role in farming and household business decisions	50 New entrepreneurs Cascading job impacts	30 Youth completed internship
200 New loans from Montigny	50 New community labourers (25 already hired in Oct'17)	50 New MSMEs	10 Schools in My Choice My Life: 680 Students 26 Teachers
480 Ha rehabilitated	70% of students adopt new entrepreneurial practice	50% Increase in incremental revenues	
SZL 10 million at harvest compared to SZL 1 million unrehabilitated			

There is an important link between the livelihoods of rural people, especially the forest dependent poor, and natural resources. In Eswatini, more than 70% of the population derives their livelihood through the natural resources, such as forests, water, lands and animals. With increasing population and falling productivity of farmlands, generating alternative sources of income is essential. It is important to promote activities that balance the need for conserving biodiversity and meet the requirements of local communities, on the one hand, and promote technologies and skills that can provide additional income on the other[32].

5.2 Energy

5.2.1 Renewable Energy (IPPs)

Renewable energy (IPPs) offers one of the best investment opportunities for domestic and international investors under the EFSD guarantee. Eswatini purchases over 80% of their energy requirements from South Africa from a contract with Eskom. The Government of Eswatini has accepted and employed an IPP policy to encourage renewable energy production and greater energy security; however, in practice, SEC is not agreeing to negotiate tariffs with new independent power producers as SEC's business model is based on imports from Eskom and there is no guarantee scheme in place to cover the risks attached to negotiating such new long terms contracts. As a result some Swazi and EU investment in renewable energy production is not materialising. The policy framework for PPP (Public Private Partnerships) was updated in 2008 yet there is still no significant increase in Successful PPP projects and line Ministries do not yet have guidelines. There remains interest for PPP e.g. SWADE, Old Mutual discussions on new Abattoir/feedlot). The EFSD guarantee is thus ideal to eliminate the bottleneck on IPPs[33].

The Eswatini Electricity Company (SEC) presently owns and uses 4 hydroelectric plants with a total generation capacity of 60MW for peak and emergency power. Other IPPs established consist of Uhubombo (part of Ilovo Sugar) who feed 12MW into the grid with a biomass operation using bagasse and wood chips. Wundersight is the other IPP operating a solar energy plant generating 87KW that is currently being expanded to 850KW through SIDC funding and plans to expand further to 25MW if funding can be secured. Eswatini's electricity use is 232mw at peak demand

[32] https://eepafrica.org/about-us/success-stories/success-story-swa7112-montigny-technoserve/

[33] Jobs and Growth Compact

and 150MW at the lowest demand level. In terms of the National Energy Policy (NEP) 50% of energy must be generated locally from renewable energy sources by 2022 through Independent Power Producers (IPP). Time is running out to achieve this objective taking into consideration the time period required to set up IPP plant and become operational. The EDSF guarantee therefore comes at an ideal time to fast track decision making, approvals and issuing of IPP licenses.

Production of and access to renewable energy and sustainable energy is fundamental to developing sustainable and inclusive economies and reducing poverty. To meet growing energy demand in Eswatini and increase access to electricity, the development of renewable energy technologies is essential and to do so will require substantial inflows of capital from foreign investors and the participation of the private sector.

5.3 SME Development

The MSME sector is recognised as a significant contributor to economic growth and the development as well as job creation. The crucial role of MSMEs in the Eswatini economy anchors on the role of government (enabling environment) and the business community (business support services) to optimise the sector's development. According to the Finscope 2017 survey there are 68,536 MSMEs in Eswatini of which 25% have employees excluding the owner[34]. The survey defines MSMEs as follows.

Table 7: Definition of MSMEs

Description	Micro (informal	Small (formal)	Medium (formal)
Employees	0-3	4-10	11-50
Value of Assets	<E50,000	E50,000 to E2 mil	E2 mil to E5 mil
Turnover	<E60,000	<E3 million	Up to E8 million

The main opportunities for SME development entails addressing the need for access to finance and access to business support services such as the development of bankable business plans, mentoring and coaching, access to markets and skills development. Although SEDCO is mandated with SME development they do not have the resources and funding to perform the task at hand. There are opportunities for SME development in leather processing (if skins / hides are processed and not exported), expanding honey production honey (there are currently 11007 bee keepers in Eswatini keeping 3860 hives of bees and the consumption of honey is estimated at 126 tons of honey most of it produced locally and estimations that Eswatini has the potential capacity to produce 600 tons of honey per year).

[34] Micro, small and medium enterprises (MSME) survey

Table 8: Summary of Investment Opportunities under EFSD Guarantee

Sector / sub-sector	Synopsis	Applicable PIP
Priority Sector - Agriculture		
Livestock – Cattle	There are investment opportunities to increase head of cattle sold from 2 to 4 (through SME development) thereby increasing slaughtered cattle output from 50,000 to 100,000 carcasses per year. Commercialising of small scale cattle farmers as SME's is necessary as well as increasing and upgrading and establishing more certified and health complaint butcheries and abattoirs.	Africa SME Program for Inclusive Growth and Job Creation as well as Agricultural and rural finance PIP (lead finance organisation AFD Group)
Livestock - Skins	Explored as an investment opportunity under PIP but not recommended at present due to the export of hides in wet salted form. Processing is not environmentally friendly with toxic waste in the process and South Africa has a large and established curing and tanning industry. More viable to send to SA for curing and bringing back for value adding processes like wallets and footwear. To add value hides need to be cured and the minimum quantity to make it viable is 100,000 hides per year. Before skins and hides become a viable opportunity the number of cattle slaughtered has to be increased to at least 100,000 cattle per year.	ALCBGP as well as Agricultural and rural finance PIP
Horticulture	There are horticultural investment opportunities for funding of domestic MSE investors to supply the local and regional markets and for European investors for export to Europe under EPA and for adding value to vegetables for further processing and packing. A domestic/foreign joint shareholding would be ideal to optimise market opportunities and capitalise on international horticulture technical expertise, capacity building and technology.	Agricultural and rural finance PIP – lending with lead finance organisation AFD Group
Community Wattle Development Project Smallholder forestry – Black Wattle invasion management	Offers excellent investment opportunity to grow smallholder forestry operators (SME's) in the forestry sector, create employment, grow income potential and sustainable long term investment.	Agricultural and rural finance PIP with lead finance organisation AFD Group
Priority Sector - Renewable Energy		
Biomass, solar, wind hydro IPP	Production of and access to renewable and sustainable energy is fundamental to developing sustainable and inclusive economies and reducing poverty. Biomass renewable energy generation offer one of the best investment opportunities for both domestic and international investors under the EFSD guarantee. There is sufficient raw material (wood chips) coming from sawmill operations and sugar cane operations to produce the total 150 MW required by Eswatini and to become independent from South Africa for its energy needs. The challenge for Eswatini in producing renewable energy is the high upfront cost of supply and installation requiring high amounts of capital. The provision of adequate access to finance and the creation of bankable projects for Eswatini are therefore particularly important. Investors and developers will require both certainty of off-take and certainty about the tariff before deciding to invest.	DESCO and Room2Run as it is in line with the SE4ALL initiative and contribute to SDG7 on energy and meet the objectives set out at the Paris UNFCC COP21, to the Africa Renewable Energy Initiative (AREI) and the African-EU Energy Partnership (AEEP)
Priority Sector - SME Development		

MSME Access to Funding and Business Support Services	The MSME sector is recognised as a significant contributor to economic growth and the development as well as job creation. With this knowledge the crucial role of MSMEs in the Eswatini economy anchors on the role of government and the business community to nurture and optimise the sector's development. According to the Finscope MSME 2017 survey there are 68,536 MSMEs in Eswatini of which 25% have employees excluding the owner. There are several organisations offering various MSE business support services, however, the main party mandated to do so by the GoS is SEDCO. However, it is under resourced, underfunded and not able to deliver on its mandate with present operating conditions. Therefore the EFSD guarantee can be used to address access to funding and developing a package of quality business support services that revolve around development of bankable business plans to access finance, mentoring and coaching, feasibility studies, access to markets (local and international), training in export marketing, development and logistics. There are also opportunities in honey production and leather product manufacturing.	African Local Currency Bond Guarantee Programme (ALCBGP) which will directly benefit people looking to set up /expand small businesses and individuals & families on lower incomes who currently have little or no access to financial services like bank loans

6 VIEWS OF ESWATINI COC AND EU/MEMBER STATES COC ON THE RELEVANCE, FORMAT, FEASIBILITY OF SETTING UP A PRIVATE SECTOR INDABA ON ADDRESSING BARRIERS TO INVESTMENT

During the consultation phase the views of respondents were obtained in terms of the relevance, format and feasibility of setting up a private sector indaba, field visits, dedicated meetings, other forms of public-private sector dialogues on addressing barriers to business and investment in Eswatini.

The table below summarise the views of respondents with the overwhelming response being positive toward any new initiatives to effect policy reforms, improving the investment climate and ease of doing business.

Table 9: Summarised the Views of Respondents

	Views on relevance, format and feasibility of:			
Respondent	**Private Sector Indaba**	**Field visits**	**Dedicated meetings**	**Other forms of PPS Dialogue**
FSE&CC	Fully support and agree on relevance of any new initiative to add 'clout' to private sector reform. The participation of EU and EU Member states in such an Indaba will be important. Format could be a full day 'Indaba" sharing findings of private sector development project and involving presentations on topics by EU / Member State Chambers of Commerce. Believe it is feasible in terms of potential impact that can be achieved Sceptical as to the impact on government in view of past experiences	Field visits referring to private sector company visits for improved interaction with the PS are fully supported and already included in their strategic plan. Field visits if referring to trade development through field visits to and from EU / Member State Chambers is strongly supported in terms of relevance. Feasibility needs to be looked at in terms of funding for such initiatives Supportive need for trade missions / field visits and export development	Fully supportive of the relevance of dedicated meetings with Ministries to effect policy change and already doing so. The format could be the formation of a working group with EU Member State Chambers of Commerce. Feasibility would depend on frequency of such dedicated meetings and probably quarterly	The outreach program with EU / Member State Chambers of Commerce and forming a working group has strong relevance for FSE&CC as part of process to reposition the Chamber as the leading advocacy and lobbying organisation on behalf of the private sector. See the feasibility of such initiative as unquestionable View relevance as high to reinforce and renew efforts as required to effect policy reforms. Agree with format of working group
Public authorities	Only 3 Ministries engaged with but views were supportive of such proposed Indaba. SWADE, NAMBoard and other institutions (SIPA, SEDCO) also supportive of initiative.	Views were neutral in lieu of level of interviews that took place	Views are that ongoing dedicated meetings take place and relevant. Present format is direct and through working committees	Open to suggestions in this regard

Member State Chambers of Commerce	Positive feedback re participating in Indaba and its relevance to effect change. Format could be one-day workshop hosted by GoS with guest speakers and agenda to cover the findings of PSD project and expressing PSs concerns to new investments	Chambers such as German and Spanish CoC periodically receive delegations from their countries and are willing to involve Eswatini in future field visits. Initiative is very relevant and feasible as it is an ongoing process already	Expressed their willingness to participate and agree on relevance. Format could be to receive FSE&CC staff for capacity building, special meeting with Ministries on problematic legislation	Working group as new PPS dialogue seen as relevant. Extended invite to participate in PPS dialogue once working group and MOU working arrangement is established
EU Chamber of Commerce	Supportive to participate in Indaba and view as relevant Format to be discussed in terms of agenda, location, who to attend, topics and theme. Funding such and Indaba need to be finalised	Fully supportive and referred to previous visit by SIPA in terms of relevance. Format could be in and out missions to and from Eswatini involving EU Chambers' members and trade delegations as well as FSE&CC members	Fully supportive of relevance (referred to previous visit by SIPA). Format depends on frequency and aim of meetings	Strongly support relevance of new forms of PPS Shared examples of position papers developed to effect policy reforms in South Africa as possible format and outcomes to show feasibility

In conclusion the views of the participants i.e. the FSE&CC, EU and Member State Chambers of Commerce and public authorities are useful guidelines to serve as a starting point for the practical steps the EUD need to take in Eswatini for developing an action plan to strengthen dialogue between the private sector and the GoS. Priority actions to be initiated by the EUD are outlined under the capacity building program in section seven of the report.

The acceptance of the final report could serve as a trigger for the EUD to arrange the proposed "Indaba" during which time the FSE&CC, EU and Member State Chambers of Commerce could meet to deliberate an MOU and the formation of a working group. The presentation of the findings on the investment climate, impediments to the ease of doing business and policy constraints identified during the assignment could be presented to act as a further trigger to reinforce dialogue. At the same time draft policies and legislation could be unpacked further to give the private sector, EU and Member State Chambers and FSE& CC members in particular an opportunity to influence such policies.

The reinforced dialogue need to be based on compiling position papers and fact sheets to demonstrate to legislatures the impact policy and regulatory constraints have on the investment climate, FDI, ease of doing business and the competitiveness of Swazi companies.

7 TYPE AND FORMAT OF TECHNICAL ASSISTANCE/CAPACITY BUILDING THAT CAN CONTRIBUTE TO EMPOWER THE ESWATINI CHAMBER OF COMMERCE TO IMPROVE THE BUSINESS ENVIRONMENT IN ESWATINI

FSE&CC Overview

The Federation of Eswatini Employers and Chamber of Commerce (FSE&CC) is a voluntary, non-profit making member-based organisation representing employers and businesses in all sectors of the Eswatini economy to promote trade and harmonious labour relations. It is the main voice of the private sector in representing more than 80% of big businesses in Eswatini. It protects the economic interests of the business community through continuous advocacy, engagement and dialogue on legislative and policy issues.. Its mission is to improve the ease of doing business through advocacy and representation of the business community. The main objectives of the organization are to:

- Perform an umbrella body role for all businesses in Eswatini
- Promote and defend the interests of its members in any way as may be considered necessary
- Promote and foster trade, commerce and industry of all descriptions whatsoever, in and outside of Eswatini
- Promote, support and/or make representations in relation to legislative or other measures affecting the interests of members and the trading environment
- Collect, clarify and disseminate statistical and other information of relevance and interest to our members
- Speak authoritatively and independently for the whole business community (business and employers) on issues of policy and public interest
- Conciliate, negotiate, arbitrate or by any other means contribute to the settlement of commercial or industrial disputes
- Provide efficient, relevant, professional and quality services to business for sustainable growth and development

In fulfilling its mandate the FSE&CCs core functions are advisory; advocacy and representation

Current Situation at FSE&CC

The FSE&CC launched its strategic plan for 2018 – 2021 that calls for improved advocacy and representation of the private sector in order stimulate and sustain economic activity and it informs the annual operation plans of the federation for the next 3 years. The strategic plan, informed by a perception survey of business and other stakeholders, aims to prioritise the needs of the FSE&CC membership and the business community at large. Based on the perception survey as well as other models used during the strategy sessions, the following highlights were made: There is a need to focus on the core mandate of the FSE&CC, being advocacy and lobbying. There is a gap in terms of member engagement and communication leading to a reduction in the level of satisfaction within the membership. FSE&CC needs to develop strong accountability between the secretariat and members who represent FSE&CC in various strategic boards. There is a need to develop and reinvigorate stakeholder engagement frameworks with key strategic partners in putting forward the advocacy agenda of FSE&CC. The internal processes of FSE&CC need strengthening in terms of human capital capacity building, member responsiveness and general infrastructure. There is a need to align services with member needs and core mandate as well as development of robust monitoring and evaluation frameworks.

Table 10: FSE&CC SWOT Analysis

Strengths	Weaknesses
Reduced communication costs Improved relations with Government agencies Platforms to discuss advocacy issues: Sector meetings Mandate meetings Communication channels Improved perceptions Improved visibility from past Improved relations with TUCOSWA & FESBC Loyal top members Strong and dedicated executive committee FSE&CC brand is perceived positively Good relations with EU, ILO, US Embassy Good relations with strategic partners Presence of policies Well positioned to mobilise additional resources i.t.o. relationships with development partners	Underutilised website Lack of capacitating-work plans aligned to CRM High staff turnover - benchmark to unearth causes Insufficient member participation in FSE&CC programmes and meetings Poor attendance of sector meetings Vague membership categorisation leads to confusion amongst members Diverse activities result in lack of focus on core mandate of lobbying and advocacy Inadequate review of strategy Lack of proper induction of staff due to poor recruitment processes Lack of overall annual service (advocacy, consulting, trainings, seminars events) evaluation Absence of database of external consultants Lack of overall service evaluation Lack of advocacy strategy & implement plan Member responsiveness to engage on issues Underutilisation of communication channels Absence of quality management systems – advocacy tools Organisational structure is not well aligned in terms of advocacy High ratio of expenditure to guaranteed income Single major source of income – subscriptions Changing focus / priorities Insufficient capacity to prepare concept notes for resource mobilisation
Opportunities	**Threats**
Explore other sources of energy Increase production of ethanol for domestic & export use for pollution conscious consumers Unpack / analyse impact of draft policies and legislation to give members opp to influence Develop partnerships with new legislators Opportunities to leverage on MOUs with SIPA, SEDCO, SPPRA, SEPARC (on resource centre) Get funding from development partners Engage at regional & international level to improve benchmarking with similar org's Re-branding/revitalise for improved impetus New export opportunities SADC-EU EPA	Slow and unreliable IT infrastructure Flawed ICT legislation in country High communication costs compared to SADC region Government's manual communication system Over regulation of industry impedes ease to do bus Lack of policy to drive government Policy instability in country Conflicting/fragmented policy & regulatory initiatives Poor consultation by government on policy and legislative development Inefficient and expensive judiciary processes Lack of policy coherence within government Lack of fiscal discipline within government Tax regime is restrictive to economic growth Consequences of poorly drafted legislation not creating a conducive business environment Government crowding out private investment – lack of privatisation policy Inefficiency as a result of government bureaucracy Bloated public sector

To meet objectives of reinforcing and enrich the public/private sector dialogue on how to improve the business and investment environment in Eswatini (in partnership with the EUD, EU and Member States Chambers of Commerce) it is necessary for FSE&CC to develop internal skills and capacity. The below listed type and format of capacity building can contribute to empower

Eswatini Chamber of Commerce and businesses in improving its relevancy, service delivery, competitiveness of members and reinforce efforts to influencing / developing regulations, policies and activities that enhance the business environment in Eswatini. ***The capacity building plan also took into account a brief assessment of present capacity constraints encountered*** by the Eswatini Chamber of Commerce[35] and competitiveness factors impacting on businesses. Based on discussions with the HR manager the present gaps include a high staff turnover (5/10 staff members in last 2 years); need for a research centre and to develop position papers and proposals (presently happens ad hoc); lack of a business support coordinator; lack of business management principles across all levels of staff; no specialised events management coordinator; lack around interpretation of new policy and regulations (need skills to understand, interpret and act on it) and need to establishment of a Resource and Media Centre (e.g. EU Trade Portals).

Table 11: Capacity Building Plan

Capacity Building Plan		
Competence / skills area	**Nature of intervention**	**Time frame**
Selected staff to obtain exposure to all facets of operating a successful Chamber	Selected staff to spend 4 – 6 weeks at the German Chamber of Commerce in Johannesburg under its existing mentoring program. Spend one week in each department and service area for exposure, observations and overview of activities.	Q1 2019
Developing and compiling position papers and proposals	Adapt to lessons learnt by European Chambers of Commerce, methodologies used, critical contents, presenting position papers and lobbying / advocacy skills	Q4 – 2018 Q1 & Q2 -2019
Develop internal and external research capacity – access to information	Review/ evaluation of information gaps, types of research to be conducted, compiling research reports and prepared position papers from research done through training, coaching and mentoring	Q3 &Q 4- 2019
Organisational learning and growth in service delivery	Engage consultants for in-house in-person training and coaching	Q2 & Q3 2019
Monitoring, Evaluation and Reporting	Based on benchmarking best practises at EU Chambers of Commerce the required monitoring and reporting to be undertaken by the Chamber	Q1 - 2019
Organisational development i.e. expand service delivery portfolio	Review strategic plan, current and future services to be offered and facilitated by external service provider	Q2 - 2019
Introduce a range of training programs for members to enhance competitiveness of SME members	Training to be provided by external service providers i.e. export orientation, export marketing, INCOTERMS, basic business principles, develop competitiveness of members,	Ongoing to members once developed
Trade Development	Benchmarking and mentoring by German Chamber of Commerce on arranging and facilitating trade missions to South Africa and Europe to promote EPA and export opportunities for members	Q4- 2019 and Q1 2020

[35] https://www.business-Eswatini.co.sz/about_us.html

Positioning a Chamber to be recognised as stakeholder for consultation and sign off on policies and regulations	Part of in-house mentoring process during visit to Chamber in Johannesburg	Q1 - 2019
Conducting Chamber members assessments and reviews	How to engage with members, collect information on their operations, interpret and address needs and compile member profiles for active use in planning service delivery. Mentoring and coaching through external service providers.	Q1 – Q4 2019

The capacity building plan for FSE&CC is to develop Chamber staff members' skills and ability to more effectively deliver on the Chamber's mission, improving the effectiveness of the Chamber and contribute to the restructuring and repositioning of the Chamber. The objective is to bring the organisation to the next level of operational, programmatic, financial and organizational maturity[36]. It is not viewed as a one-time effort to improve short-term effectiveness, but rather a continuous improvement strategy toward the creation of a more sustainable and effective organization.

Benchmarking Best Practices for Chambers of Commerce

Part of the assignment entailed a benchmarking exercise of best practices at EU / Member State Chambers. By necessity Chambers of commerce, like all non-profit associations and groups, is required to constantly benchmark their performance and activities[37]. They must do so in order to ensure they set an example and remain relevant, not only to their business members, but more broadly to government and civil society. The section below first assesses challenges faced by Chambers of Commerce to stay relevant, criteria to meet the expectations of its members followed by the best practices identified from the 3-day mission to engage with the EU Chamber of Commerce and bi-lateral European Chambers of Commerce in South Africa.

7.1 Challenges faced by Chambers of Commerce

With the world quickly moving towards a complete dependence on technology where Chamber members can find the answer to every question on their smart phones. Twenty years ago it was instinctive to call the local Chamber of Commerce if members had any question about how to trade, what service provider to use or the best country to visit. Now with the help of Google, and dozens of other interactive websites, referrals from Chambers of Commerce are declining year after year. This technology revolution has brought local small businesses to a point where they are questioning the value of their Chamber membership. The challenge therefore increasingly becomes how Chambers can stay relevant in a digital world and to "Innovate or Die" as Chambers are going to have to change their old structure and adapt to the changing world or they will cease to exist[38]. FSE&CC has developed a strategic plan for 2018 – 2021 entailing a restructuring of the organisation to re-align its departmental KAPs and KPIs to focus on advocacy and lobbying and less on services and events to optimise its scarce resources.

7.2 Defining Best Practices for Chambers of Commerce

The sustainability of a Chamber is closely linked to the outcomes achieved such as advocacy, lobbying, joint marketing successes, services offered, networking, improved competitiveness,

[36] https://www.councilofnonprofits.org/tools-resources/what-capacity-building
[37] https://iccwbo.org/chamber-services/chamber-resources/chamber-management-guides/
[38] https://www.uschamberfoundation.org/sites/default/files/The%20Future%20of%20Data-Driven%20Innovation.pdf

new market access, etc. The following set of criteria is a useful guide for FSE&CC in terms of the inputs and processes of Chambers of Commerce and links them to outcomes.

Table 12: Criteria to guide the inputs and processes of Chambers of Commerce

Criteria	Inputs and Processes	Outcomes
Relevance	Chamber mission, strategy and relevance to regional development priorities	Extent to which the Chamber match the expectations of members and impact on their performance and improving competitiveness
Efficiency	Financial budget, Chamber management procedures and cost of providing Chamber facilities as well as quality services to members.	Cost effectiveness of outputs in Chamber service development and meeting regional and national objectives, meeting and exceeding members expectations
Effectiveness	Extent to which a Chamber achieves key operational targets set out in its business plan (e.g. access to local and export markets through joint marketing initiatives.	Extent to which Chamber achieves targets in terms of member expectations and wider regional impacts. Impact on changes to policy and regulatory framework
Utilisation	Member growth rates and take up of Chamber support services	Extent to which Chamber services meet members' needs and contribute to their competitiveness, increased sales of products and services that lead to more productive utilization of their resources
Sustainability	Financial sustainability of a Chamber depends on contributing to reducing the operating costs of members, grow own income, higher demand for products and services and the degree to which the Chamber contributes in achieving regional and national objectives	The extent to which the Chamber initiates SME sustainability, contribute positively to economic development, develop reputation for 'making things happen', improve the ease of doing business and contribute to lowering the cost of doing business

7.3 Chambers of Commerce Best Practices Identified

The assignment looked at international best practices at EU / Member State Chambers of Commerce based in South Africa notably the German Chamber of Commerce[39]. The following best practices were identified from the benchmarking exercise.

[39] http://suedafrika.ahk.de/en/

Table 13: Best Practices Guide for consideration by Eswatini Chambers of Commerce

Best Practices (Guide) for Eswatini Chambers of Commerce	
1. Need to be a ***neutral*** third party platform and ***non-political.***	It goes almost without saying that all Chambers of Commerce should not be political orientated in any sense and act absolutely non-political in performing all its activities. A Chamber should also not be controlled to serve only the needs of a few members.
2. Advocate and lobby for the creation of policies which support and encourage rather than prevent and discourage private sector development.	Effective Chambers requires position papers to present and lobby for an enabling environment and change to enable and encourage private sector development and FDI. Chambers then engage with Government where national policies are formulated and decided. Effective policy frameworks link the separate elements of doing business and align the private and public sectors in a systematic and coordinated "whole-of-government" approach to private sector development. This is what is meant by alignment i.e. getting policies / regulations and people in-line and working together towards a shared goal of economic and private sector development and improvement of the investment climate.
3. Lobbying & Advocacy services offered. ***Must reflect the voice of members.***	Some Chambers focus **only** on advocacy and lobbying such as the EU Chamber of Commerce in South Africa while other perform a dual role of lobbying / advocacy and offering a range of services to its members. For the Eswatini Chamber of Commerce the best practice would be a dual role with a combination of the above. A distinction should also be drawn between lobbying and advocacy as they are two separate functions. The goals of **advocacy** and **lobbying** are similar, but the processes are different. **Advocacy** is attempting to cause political action using methods such as civil education and public campaigns to influence decision-makers. **Lobbying** refers to influencing the government and its leaders. **Different kinds of Lobbying:** **Grassroots lobbying:** Any attempt to influence legislation by affecting the opinion of the general public. In this case the organization encourages the public to lobby. The organization refers to a specific piece of legislation and provides information to the public on how to contact decision makers. Under certain circumstances mass media ads are an example of grassroots lobbying. **Direct lobbying:** Any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official who may participate in the formulation of legislation. A specific activity constitutes direct lobbying if: ✓ The principal purpose is to influence legislation, ✓ There is reference to a specific piece of legislation (even if the legislation is not currently under consideration), and ✓ A point of view is expressed.
4. Other key services offered by best practicing Chambers to ***add value and stay relevant.***	**Other services** entail a combination of one and/or all of the following: **Training programs** for members ranging from basic to advance for example from basic business principles, export orientation and marketing/sales management courses to Train the Trainer and 3-year Megatronic courses (Robot and computer optimisation) where entry level is a electrical or mechanical engineer. The advanced courses are subcontracted to external experts / institutions and supervised by Chambers.

	Importantly all training course / programs offered should be demand driven and not supply driven training. The scope, relevancy and demand for training is a key best practice Another feature of best practice training workshops and courses is that they are "self-funding and paid for by member companies. It may be possible to get funding from a Bank to sponsor deserving members to attend. **Trade development** i.e. assists with doing a business partner search either for Groups or Individual companies. For groups up to 15 it entails taking delegations abroad or to neighbouring African States. For individual companies it entails doing a trade partner search with retailers, wholesalers, distributors or agents in the target country. **Arranging events**. The roots of many Chambers lie in the numerous networking events undertaken to encourage and support inter-firm collaboration. Examples of networking includes: ✓ Breakfast / luncheon events ✓ Workshops (working with groups of 15) ✓ Seminars (talking to up to 25 people) ✓ Woman's' forums ✓ Sector specific speakers **Social Media.** Best practicing Chambers of Commerce invest a lot of money in Facebook and Twitter as communication channels (relevancy). These Chambers have a full time dedicated person to manage the social media platform, publications, newsletters, etc. Newsletters also go to a wider audience than members only to what is called "members and friends". ***Communication is ultimately a key best practice*** and criteria for success and needs to be aligned with members. The frequency of events differ from Chamber to Chamber but typically have one bi-monthly luncheon with a speaker to address members with question and answer session after lunch on topical issues i.e. renewable energy, land ownership, Investment Protection, labour law, etc. The Internet has enabled Chambers to create quite sophisticated communications systems with its members.
5. Extend Chamber expertise through engaging with a panel of external topic specific expert service providers as it is too expensive to appoint skills internally.	Best practising Chambers have MOU's and service delivery agreements with a panel of external service providers specialising in areas where members have indicated the need for demand driven training e.g. basic and advanced business principles, export orientation and export management courses. A more significant approach would be the formation of cross-teams that include Chamber expertise.
6. Continually check if Chamber is still ***relevant*** for new and evolving business environments	Staying in tune with the needs of Chamber members is a key best practice that should be undertaken regularly and on-going
7. Design "*Centres of Excellence"*	Chambers of Commerce are often "Jacks of all Trades and Masters of None" being good at many things but poor in depth. Best practicing Chambers form / design centres of excellence e.g. renewable energy where they deal with all aspects around the topic, develop position papers and market reports.
8. Create entrepreneurial support and learning networks	Entrepreneurs and young firms (SMEs) have a greater need for networking than existing companies because they have less experience and no established routines. They thrive on information, advice and knowledge. The most effective networks are based on some sort of existing relationships among entrepreneurs, such as incubators, economic development programmes, common sources of capital, associations, etc. Innovative companies can benefit greatly from networks forming, for example, around common problems or specific technologies.

9. Development of internal personnel through ***capacity building***	Equally important to Chambers is the development of their human resources. In no other resource is a Chamber more dependent on the quality, skills and expertise of their staff and they invest big in training, capacity building and skills development of their staff. Specialised, Chamber-specific skills are learned on the job complemented through mentoring and exposure to best practicing Chambers.
10. Chamber operational Chamber structures	While there are not any specific best practices around any particular operational structure it is interesting to note that there are different structures applied in running a Chamber of Commerce. Typically there is a board of directors with an Exco headed by a CEO and business unit managers. The bi-lateral EU German Chamber of Commerce in SA is structured with a Board of Directors consisting of 7 persons plus the CEO and no Exco but rather an Advisory Council consisting of 25 members (who are all CEO's of German companies in South Africa. Then there are 8 working groups in specialised areas with each working group headed by a member of the board and including a member of the advisory council and experts.
11. Market and related research and sharing of information through an information and resource centre	From interacting with other Chambers of Commerce it is confirmed that there is a strong need for market research to be able to provide information to members. Types of information required includes gaining market access, product specification and standards required, access to and list of agents and distributors operating in target countries, trade opportunities and import statistics.
12. Business skills and experience of Chamber personnel	Having staff with practical past business experience is a key best practice to add value for members and to stay relevant to members. Business degrees and/or qualification are important in this regard to ensure an understanding of basic and even advance business and management principles.
13. Time utilisation or allocation of the CEO of best performing Chamber of Commerce	The following allocation of time spent by a CEO of a best practicing EU Chamber is not necessarily a best practice but rather an indication of the importance of various functions and services of the particular Chamber. Time is spent as follows: • Time spent / allocated to members: 12% • Reporting to Country of Origin: 8% • Advocacy / lobbying: 10% • Planning and Strategy Development: 25% • Chamber staff related issues: 15% • Outlying offices and normal activities: 8%

In conclusion the views of the participants under section 6 and the best practices outlined above are essential guidelines and a departure point for actions the EUD need to initiate and to develop an action plan to strengthen the role of the FSE&CC. The priority steps proposed are:

Action Plan to strengthen the role of Chambers of Commerce
• Arrange a briefing meeting between the FSE&CC (represented by the President and senior management), EU and bilateral Chambers of Commerce to be chaired by the EUD • Implement the capacity building program proposed for FSE&CC and provide technical assistance and funding for the program • Establish a working group to guide & implement a reinforced dialogue approach based on the best practices outlines in section 7 • Develop a action plan with timeframes to address priority policy and regulatory reforms highlighted under the mapping section • Prepare position papers and fact sheets on key policy constraints identified in section 1 to present to the authorities and use the EU and Member State Chambers of Commerce to add clout the and reinforce the dialogue with the GoS

8 CONCLUSIONS

8.1 Overall conclusions

Eswatini has reached an important juncture in its private sector development trajectory, where significant policy reforms are required to accelerate economic and private sector growth requiring the EUD to engage more proactively with the private sector.

Various private sector development initiatives since 2005 have not had the desired impact on GDP growth, unemployment, competitiveness, skills shortages and difficulties in doing business and unfavourable investment climate persists.

Although the EU is active in providing on-going support for private sector development, value chain analysis and improving the business environment, the barriers to private sector development may even be worsening i.e. the proposed new employment Act.

The EU plays an important role in private sector development such as contributing to the sugar value chain; the EDF11 Horticulture and high value crop program; the EDF11 value chain livestock development program and utilisation of the VC4D and SE4ALL thematic facilities.

There is strong evidence of disconnection between the private sector and government such as poor communication, policy constraints, bureaucratic procedures, red tape, punitive measures by the Competition Commission and SRA.

The FSE&CC is identified as an ideal organisation for the EUD to drive private sector development provided it is supported financially and end embarks on a capacity building program despite having a committed and highly skilled executive team.

The SADC-EU EPA is still in its infancy being launched and although it has been introduced to the private sector through a presentation at FSE&CC it was done at a low level and insufficient representation of the private sector. The EPA implementation action plan is being implemented without sufficient participation by the private sector.

The proposed projects for possible support and funding under the EFSD guarantee and PIPs are complementary to projects already funded / supported by the EU and offer "additionality".

The conclusions below are structured according to the key deliverables in the terms of reference

8.2 Legislation, policy reforms and policy dialogues

Barriers to private sector development identified for Eswatini are:

The Competition Commission Act: Punitive measures enforced by the Commission even for basic business takeovers and unnecessary investigations contribute to the unfavourable investment climate, ease of doing business and long delays in getting businesses operational.

Companies are forced to use the services of attorneys which adds to the cost of doing business. One of the core reasons for the punitive approach by the Commission is pressure to grow its revenue base, hence even when a business is expanding it has to approach the Commission and forced pay a notification fee. Time delays in getting projects approved took 18 months and has costs of SZL600,000 for a merger in one instance.

The Companies Act: The challenge with the Act is how it is administered and being regulated with excessive red tape and lengthy procedures for example starting a business requires 12 procedures and 30 days; getting electricity entails 6 procedures but takes 137 days; dealing with construction permits entails 14 processes and takes 116 days, enforcing contracts takes 956 days to get to court. Added to this an employee of new company need a letter from their employer to confirm they are employed before they can open a bank account. When applying for and obtaining trading licences the regulator and legislation are saying two different things leading to confusion.

The Income Tax Act: The top marginal corporate tax rate in Eswatini is 30 per cent. Although this is comparable with other countries, it is far higher than in Botswana (15 per cent). The punitive measures applied by SRA in tax collection practices do not contribute to an enabling environment. In cases of an over payment on provisional tax one will not get refunded and have to prove that SRA owes a refund making it an onerous process. There is no tribunal in place and decisions still taken by the Commissioner General. Punitive measures are applied by SRA without distinguishing between legitimate companies making clerical errors and those companies guilty of tax evasion and fraudulent activities and hence a blanket approach is applied to businesses without taking into consideration companies' standing in the market and/or years in business. There is also unwillingness by SRA to refund payments, however, they are lighting fast to penalise businesses when anything owed to them, which creates a harsh investment climate. The higher Tax burden and compliance may lead to business closures which is counterproductive leading to less tax payers, discourages businesses to grow or establish and develop new businesses.

Employment and Industrial Relations Acts: A new employment Bill (still in draft form) seeks to introduce clauses that are not employer friendly as it discourages the use of fixed term contracts, seasonal contracts, casual employment, employment through labour brokers and sub-contracting.

The proposed labour Bill also entail stringent regulations prohibiting labour brokers, outsourcing and subcontracting; harsher terms for hours worked, overtime pay, maternity leave, public holiday pay and related issues pertaining to these categories of workers. Implementation of the Bill will lead to a decline in the number of casual, part time, seasonal and contract workers and ultimately higher unemployment overall.

Immigration Act (Work Permits): The immigration Act covers procedures for obtaining work permits for non-Swazi citizens due to the "localisation" policy. Skills shortages, however, necessitates the need for foreign workers to fill skills gaps. The policy requires that newspaper adverts be place which is a frustrating process as 6 out of 10 applications are declined. The policy is counterproductive to creating an investor friendly climate and enabling environment for foreign investors.

8.3 Impediments to the investment climate in Eswatini

There is a lack of an enabling environment in Eswatini evidenced by the ease of doing business 2018 report ranking Eswatini 112th out of 190 countries for overall ease of doing business (down from its 2017 and 2016 ranks and below the ranks of neighbouring economies Lesotho, Botswana, Namibia).

The World Economic Forum Global Competitiveness Report 2017/18 ranks Eswatini 122nd out of 144 countries in 2016. The World Economic Forum's 2013 Travel and Tourism Competitiveness Index (TTCI) rank Eswatini 119th out of 140 countries.

The World Bank worldwide governance indicators ranks Eswatini in the lowest 3 quintiles for institutional accountability, government effectiveness, regulatory quality, rule of law and

highlight a degrading performance on control of corruption. These indices above give a partial, yet indicative impression of the investment climate.

Apart from the above, the dominance of public sector or national funds into the economic sectors; the difficulties to invest under the land tenure system, the long and uncertain delays in the adoption of new policies and laws affecting investments, the business impact of HIV, the lack of higher/vocational education and training and the disconnection between wages and productivity dynamics makes Eswatini less attractive than other economies.

8.4 Investment Climate Survey

A perception survey with a sample size of 28 companies (11% of the paying members of FSE&CC) includiding eight respondents in the agricultural sector and the balance a mix of other industry sectors i.e. financial services, retail, food processing, manufacturing and ICT. The findings of the perception survey are:

- 60% of respondents rate the investment climate unfavourable; 40% rate it as restrictive
- 80% of respondents rate the ease of doing business as worsening; 20% rate it unchanged
- 70% rate government policies & regulations as main barriers to the ease of doing business; 16% rate access to finance and 14% rate the size of the local market as barriers
- 60% of respondents rate high electricity and communication costs and punitive competition commission practices as key factors impacting competitiveness; 16% rate a lack of skills; 16% rate lack of market information and 8% rate low productivity as key impediments impacting on competitiveness
- 80% of respondents are of the opinion that execution of policies and regulations by government officials are not consistently applied while 20% experience mixed messages in the execution of policies and regulations.
- All respondents (100%) agree that policies and regulations are not clearly communicated by government; there is confusion and uncertainty with which Ministry to deal as duties and responsibilities overlap

8.5 Promising sectors and sub-sectors for investment

The value chains identified with the highest potential in terms of job creation; increase in capacity, economic activity, local value added and attracting investments; and enhanced market access at local/ national level and increased exports towards EU market are sugar cane (the lead export crop); horticulture and high-value crops and livestock as it is the main capital reserve of many smallholders and a major untapped opportunity for increased domestic production and exports.

Agriculture sector

In agriculture the horticulture sector is growing increasingly involving small-holder farmers and the varying ecological zones allow for the production of vegetables, and baby vegetables throughout the year. The preferential access to the EU market through the SADC-EH EPA is also a strong driver of the growth of the sector that offers opportunities.

Horticulture offers large potential for import replacement as Eswatini import around 60% of its demand in vegetables from South Africa. The EU EDF11 High Value Crops and Horticulture program is particularly focused on growing such access to profitable markets.

There are several constraints impeding on the **agricultural sector** entailing the lack of skills to develop more competitive products; land management system as SNL land is not well irrigated and overgrazed and it is difficult to access loans; foreign and local investors are discouraged as there are discrepancies in the published policy about when commercial land can be allocated.

In addition there are constraints to trade as crossing borders makes logistics expensive; local demand is mostly satisfied by South African imports; lack of information on markets, lack of export orientation, and lack of market access, suboptimal investment and existing agriculture infrastructure needs rehabilitation and adaptation to climate change.

Energy sector

Although the energy sector is small it has great potential to grow but is not happening at the desired rate. The Eswatini Electricity Company (SEC) imports over 80% of its electricity needs from South Africa and uses 4 hydroelectric plants owned by SEC with a total generation capacity of 60MW for peak and emergency power. Eswatini's electricity use is 232mw at peak demand and 150MW at the lowest demand level.

In terms of the National Energy Policy (NEP) **50% of energy** must be generated locally from renewable energy sources by 2022 through Independent Power Producers (IPPs), however, time is running out to adopt clear policies in terms of rolling out renewable energy project and already there are delays in applications to SERA for renewable energy projects.

The main regulatory barriers identified include difficulty of mobilising funding for investment, which can lead to severe delays in project implementation; the small size of the local energy market; limited natural resources and diminishing power capacity in the Southern African region.

SME Development

There is little evidence of the emergence of a dynamic and growth-orientated locally owned and managed private sector in the form of MSMEs as a viable alternative source of income generation and employment creation. Hence the largely stagnant growth of the SME sector, one dominated by mainly marginal micro-enterprises (sole traders) at a subsistence level, trading just to supplement low incomes rather than serving as progressive career paths to achieving higher income levels.

8.6 Potential Investment Opportunities (based on proposed EFSD PIPs)

In line with the TOR the following opportunities were identified as having potential for funding under the EFSD guarantee.

- Livestock cattle
- Horticulture
- Smallholder forestry wattle management program
- Renewable energy – solar, biomass, wind and hydro
- SME development – manufacture of leather products, expanding honey production, skills development and business support services

The proposed Investment Programmes (PIPs) for funding are as follows:

Table 14: Investment Programmes (PIPs)

Name of PIP	Lead Financial Institution	EFSD Guarantee	Sectors covered
ALCBGP	KfW (Germany)	Up to EUR100mil	Renewable energy Agriculture Waste management Health care and education Low income housing
DESCO Financing Program	African Development Bank	Up to EUR50 mil	Solar energy
Room2 Run	African Development Bank	Up to EUR50 mil	Sustainable energy renewables
De-risking investments in sustainable energy through 3 tools: a) AEGF African Energy Guarantee Facility b) RLSF, c) ourier	European Investment Bank	EUR50 million	Sustainable energy
Core Guarantee Intermediated lending	AFD EIB	Up to Eur500 mil	Agricultural and rural finance SME Access to Finance

New selection and eligibility criteria have been identified and need to be taken into consideration entailing electricity sources and consumption; physical capacity of the SEC as the electricity utility; transmission/distribution; capacity to handle renewable energy and capacity building i.e. lack of human professional capacity to manage the issues of the power sector.

8.7 Current Bankable Investment Opportunities Identified

During the execution of the project existing, on-the-table, bankable investment opportunities were identified for domestic and European investors to consider notably the following:

- 35MW Biomass Energy project (IPP) initiated by Montigny Investments a leading player in the forestry sector
- KM111 Horticulture Project (300 Greenhouses in SEZ at KM111 Airport

The projects offer opportunities for substantial job creation, alternative energy sources to improve competitiveness and economic spin-off benefits such as increased exports, FDI and capitalising on the SADC-EU EPA

8.8 Views of Eswatini FSE&CC, EU and Member State Chambers

The FSE&CC, EU/Member States Chambers of Commerce and public sector authorities all responded positively on the relevance, format and feasibility for arranging a private sector Indaba, field visits, dedicated meetings and other forms of public / private sector dialogues to address barriers to business and investments in Eswatini.

8.9 Type and format of technical assistance/capacity building required to empower Eswatini Chamber of Commerce

To address and make a meaningful impact on the barriers, constraints and obstacles identified and reinforce dialogue with GoS to affect change, it is necessary to ensure a *'driver'* equipped

with the required resources, skills and support of role players. FSE&CC is the logical choice as the main voice of business; however, a capacity building program is necessary for the institution. Apart from a name change the capacity and skills base of the FSE&CC need to be developed and expanded to reinforce policy reform dialogue and improve the services offered to members.

The type and format of technical assistance / capacity building proposed is based on the present resources, situation analysis and challenges faced by FSE&CC aimed at repositioning and empowering it to contribute to develop regulations, policies and advocacy initiatives and improve the investment climate.

An important part of the proposed capacity building program entails collaborating with the EU and German Chambers of Commerce; forming a joint action / working group and utilising the considerable experience of these Chambers in developing position papers and reinforcing dialogue with GoS.

EU technical assistance is required to fund the FSE&CC capacity building program entailing mentoring, coaching, training and exposing staff members to best practices and physically spending time at the German Chamber of Commerce in Johannesburg to gain exposure and experience in trade development activities, member services, packaging demand driven training programs based on member needs, marketing, coaching and events management. It is also necessary to appoint additional business orientated staff to perform Chamber activities and duties based on best practices.

The benchmarking exercise of best practices applied by European and Member States bilateral Chambers of Commerce provide a list key activities and practices to be performed, undertaken and integrated in the FES&CC strategic work plan. Effective Chambers requires position papers to present and lobby for an enabling environment and change in order to enable policy reforms, private sector development and FDI. Chambers then engage with Government where national policies are formulated and decided.

9 RECOMMENDATIONS

The recommendations are firstly aimed at mobilising initiatives to reinforce and facilitate a more structured dialogue between the Government of Eswatini, the Chambers of Commerce and the private sector on key barriers to doing business and attracting new business. It is also aimed at actions required to ensure the bankable projects identified are fed up the line to the EIP secretariat in Brussels and relevant IFIs.

- As a first step the EUD need to engage with the FSE&CC to formulise the linking up of the FSE&CC with EU and Member State Chambers of Commerce as a follow-up to the mission undertaken by the consultant to South Africa;
- This should be followed by arranging a meeting between the EUD, the FSE&CC, EU and Member State Chambers of Commerce;
- During the mission to South Africa the EU and Member State Chambers were briefed on the assignment, their comments were obtained and the EU Chamber has subsequently invited the consultant to attend networking events attended by several bilateral EU Chambers of Commerce. It is necessary for the FSE&CC to now become active in attending future events for purposes of networking;
- FSE&CC is due to appoint a new CEO by 1st November and should be engaged from the outset together with key personnel that assisted during the assignment, to establish a formal working group (WG) consisting of representatives of the EU, German and Spanish Chambers of Commerce and to conclude a MOU to guide the WG's activities;
- We furthermore recommend that the FSE&CC Strategic Plan 2018 – 2021 be utilised as a input and base document in developing the WG action plan to reinforce dialogue with the GoS as it already entails initiatives and actions emanating from its ongoing engagement with various government departments in stages of progress;
- We recommend FSE&CC act as the key 'driver' in the working group partnership in reinvigorating dialogue for private sector and policy reforms;
- It is recommended that the FSE&CC change their name from FESE&CC to eSwatini Chamber of Commerce (ECC) due the sometimes negative and misleading connotation of a Federation of Employees. It is then also necessary to reposition the eSwatini Chamber of Commerce in line with revised strategies;
- The next step would be for the EUD to engage with the EU and Member State Chambers of Commerce to jointly plan and obtain consensus on their role, short and medium term actions to be undertaken and setting dates for meetings, trade missions to and from Eswatini, networking events, field visits and setting up a private sector Indaba;
- We recommend that the EUD initiate the following with the working:

  - ✓ Jointly review trade and private sector development bottlenecks and prepare adequate responses to improve the business and investment climate.
  - ✓ Use the working group to add 'clout' and impetus in lobbying and educating the GoS legislators
  - ✓ Create a lobbying / advocacy plan based on the existing FSE&CC strategic plan to engage with Ministries on policy and regulatory reforms
  - ✓ Initiate renewed intensified discussions with the relevant Ministries for policy and regulatory reforms.
  - ✓ Engage experts on specific policies such as renewable energy to explain the impact of present policies and/or regulations and motivate concerns at Indaba's and workshops
  - ✓ Write up fact sheets with statistics and facts on impact of existing policies and effects on private sector development to hand to legislators
  - ✓ Write short editorials for newspapers to explain and support lobbying and advocacy issues with government

- The EUD should mobilise the working group by planning a series of dialogue meetings, presentations and luncheons over the next 12 months - November 2018 to October 2019;
- The next step would be for the EUD to initiate and assist the FSE&CC to start developing position papers, fact sheets and obtain "testimonials" and propose alternative polices with explanation and outline of potential impact of revised policies to reach desired state of affairs.
- We recommend that FSE&CC Piggyback on the EU and Member States' strong experience in this field having presented numerous similar papers in South Africa to fast track reinforced dialogue;
- We recommend that the EUD provide technical assistance to upscale the FSE&CC into a multi-service and more proactive Chamber of Commerce to address the weaknesses identified in terms of resources and services offered to members and to enhance its relevancy to members;
- It is necessary for the EUD to fund the capacity building program proposed based on incorporating best practices applied by EU and Member State Chambers and enable the FSE&CC to improve the quality and range of services offered, better serve the needs and interests of its members, reinforce its stance as the voice of business and promote private sector reform and development.
- We recommend a consultant be appointed as part of the capacity building program to provide mentoring and coaching to FSE&CC key personnel over for a period of 4 months and to review key services to be incorporated in the FSE&CC service portfolio. The present core focus of advocacy and lobbying need to be expanded to include services based on best practices identified to improve its relevancy;
- The scope of work for the consultant should be to provide mentoring and coaching and assist with the evaluation and consideration of expanding the Chamber's service portfolio. Based on best practice additional services could include SME business support services, networking events, arranging trade missions to and from selected countries, training in marketing and sales management, export training, providing market information, incubation services, etc.
- The EUD and FSE&CC should continue utilising and participating in existing structures involved in dialogue to support the reinvigoration of dialogue on policy reforms.
- Enter into new dialogue with the Ministry of Commerce Trade and Industry to finalise the PPP framework which is still under development without a regulatory framework and emphasise importance to private sector development.
- To truly develop the private sector and FDI for Eswatini it is necessary for the role players and stakeholders to stop mapping and identifying repeated obstacles, barriers and constraints that are already well documented and start looking at what other countries are doing to affect change i.e. the Chamber of Commerce in China (apart from capacity building for the FSE&CC).
- We recommend the EUD engage more actively with the private sector and less on focussing on government and actively involve the FSE&CC in the EU-SADC EPA implementation plan.
- The private sector needs more support directly from the EUD in view of the belief by the private sector and FESE&CC members that government driven and/or managed projects private sector development, it will simply not materialise based on past experiences;
- The EUD should plan a "Private Sector Development Indaba" in collaboration with GoS Ministries and the EU WG to present the findings of the report, positions papers and proposals for policy and regulatory reform.
- The reinforced dialogue with GoS should initially focus on the key policy, regulatory and legislative constraints identified i.e. the Competition Commission Act, Companies Act, Income Tax Act, Employment and Industrial Relations Act and the Immigration Act
- Finally, the support of the European Union Delegation is vital to the development of the private sector and initiating activities in follow-up to the linking up of FSE&CC with EU and Member State Chambers of Commerce. In fact, in the current circumstances, the quality of the services offered by FSE&CC, the power of its advocacy and lobbying (despite several successes), and its financial resources do not appear to be sufficiently guaranteed for its

financial sustainability (members leaving) and to demonstrate in the eyes of members that it gives sufficient added value compared, for example, with a structure like the German Chamber of Commerce. The development of the FSE&CC would appear as a consequence to be vitally important, and the EUD could, by providing Technical Assistance for capacity building, linking up with the EU and Member State Chambers and ad hoc support, contribute to make eSwatini Chamber of Commerce (proposed new name) not only a useful platform for European companies active in Eswatini and engaging more effectively with GoS for policy reforms, but also an effective instrument within the framework of SB4A.

9.1 Implementation Plan

The follow-up action plan is outlined below:

Table 15: Implementation Plan

Action plan activities	Proposed Target date
EUD to engage with FES&CC and arrange meeting between FSE&CC, EU and Member State Chambers of Commerce to establish working group with a MOU, (short term)	By 30.11.18
Finalise capacity building program for FSE&CC including a mentoring program of staff at German Chamber (short term)	By 15.12.18
Engage with German Chamber of Commerce to plan and commence in-house mentoring program for selected FSE&CC staff at German Chamber (short term)	By 15.01.19
Commence with capacity development program at FSE&CC including appointment of a consultant to undertake mentoring, coaching, training & review of service portfolio	By 01.02.19
Conduct strategic repositioning session to review FSE&CC work plan in cooperation with board members, EU working group and partners (short term)	By 31.03.19
Present revised FSE&CC work/business plan to Board and EU WG (short term)	By 31.03.19
Identify, interview and appoint panel of external service providers to complement services offered by the FSE&CC and to extend the range of training programs offered to members (medium term)	By 31.05.19
Plan private sector 'Indaba' to present assignment findings to GoS with inputs from private sector representatives and EU WG (short term)	By 30.03.19
Commence development of position papers, fact sheets and obtaining 'testimonials' on key obstacles impacting on investment climate in cooperation with the WG	By 30.01.19
Appoint additional staff members at FSE&CC as part of capacity building program to expand service portfolio to address members needs based on and incorporating the best practices identified (medium term)	By 30.06.19
Commence with reinforced dialogue with GOS in cooperation with EU working group partners using position papers and using the inputs of industry sector specialists for pertinent facts and figures (medium terms)	From 01.05.19
Develop ongoing position papers in key sector of renewable energy, agriculture and SME development with the assistance of external experts in the field to strengthen the motivations for change (longer term)	From Q3 2019 ongoing

10 LIST OF ANNEXES

Terms of Reference

SPECIFIC TERMS OF REFERENCE

Support to the Private Sector - Chamber of Commerce in Eswatini

Trade and Private Sector Development and Engagement Facility: Technical Assistance and Studies

1. Background

The assignment will take place within the context of the recently-launched EU External Investment Plan (EIP). The EIP aims at catalysing international and domestic private sector investment in partner countries and support them in their effort to meet the Sustainable Development Goals (SDGs). To that end, it provides a comprehensive and integrated approach, linking investment mobilisation (pillar 1) with technical assistance (pillar 2) and improving the investment climate (pillar 3) with the objective to remove constraints to private investment in partner country markets and to support priority reforms. To deliver the EIP, it is necessary for EU Delegations and Commission headquarters to establish a structured and sustained dialogue with the local and European private sectors present in partner countries, to identify the most important barriers to private investment and prioritise the investment climate reform agenda.

For this purpose, the Sustainable Business for Africa (SB4A) platform has been set up to enable structured dialogue at country, sector and strategic levels as an essential building block of pillar 3 of the EIP. Structured dialogue will ensure the right level of private sector perspective, ownership and engagement in EIP implementation. It should also help establish a link between investment support under pillar 1 of the EIP and necessary investment climate reform agenda under pillar 3.

The Kingdom of Eswatini (now renamed eSwatini) is a small, landlocked, open economy, with close trade and financial ties with South Africa. Around 70% of Eswatini's 1.3 million people are based in rural areas. 63% of the population lives below the national poverty line and 42% below the international poverty line. Unemployment stands at 26% of active population in 2015, at 53% among the youth (aged 15-24) at 53% and 46% among women. Income inequality remains one of the highest in the world, reflecting high unemployment and unequal distribution of wealth (UNDP Human development report 2016). A lower middle income country, it registered a GDP of US$4,118 billion in 2015 (current prices).

The economy comprises agriculture (10% GDP), industry (37%) and services including Government (52%). Manufacturing of Coca-Cola concentrate and sugar-related processing, other agriculture and agro-processing (vegetables, fruits, meat…), forestry and mining are the mainstays of the economy. Tourism has a potential to develop. Eswatini's economy has a relatively small domestic market size. In previous periods, Eswatini has relied on exports as an engine of growth. The country accounts for 0.01% of the world imports and exports[40], exports still have to be diversified as sugar commodity remain the dominant export products.

In the 1980's, Eswatini registered rapid average economic growth that far surpassed those of other members of SACU, SADC and COMESA countries. However, economic growth started deteriorating in the 1990s with the situation significantly worsening since 2011. Real GDP remains

[40] http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=F&Country=SZ

stays muted at around 1% in 2016 to the first quarter 2018 and growth is not expected to return rapidly in relation to fiscal challenges and declining investment flows to the country.

The low-growth levels are blamed on 2015/2016 exceptional drought, a weaker mining sector, and a difficult external environment, especially as South Africa's economic performance and monetary policy impacts directly on the local economy. South African market accounts for an estimated 90% of Eswatini's imports and consumes about 60% Swazi exports. The national budget is highly reliant on the Southern African Customs Union (SACU) revenues (43% of Government receipts in 2017/2018 budget). The country has been experiencing growing fiscal deficits leading to growing public debt (25% of GDP in 2016/2017).

The regional markets have increasingly become an important source of Eswatini's imports and exports largely due to reforms and participation in the regional integration agenda. Although Eswatini's export trade to COMESA and SADC has increased since the implementation of the free trade areas (FTAs) under both arrangements, Eswatini has recently recorded trade deficits under both arrangements due to her narrow export base. For instance, sugar is the only major foreign exchange earner following the closure of wood pulp in January 2010 as well as the declining in the importance of mining[41] in recent years. As a result, Eswatini's contribution to the world income via exports performance correspondingly declined, as evidenced by negative balance of trade, which stood at €0.6 billion of imports against €0.2 billion of exports in 2016.

Up to 2016, Eswatini, like other African-Caribbean-Pacific (ACP) countries enjoyed trade preferences for sugar from the EU, resulting in sugar exports performing better. Since June 2016, the SADC-EU Economic Partnership Agreement creates significant new opportunities for diversifying Eswatini exports to the EU and for further integrating Eswatini in regional and global value chains. The implementation of the web-based customs data management platform ASYCUDA World with EU and other development partners' support also made exporting and importing easier. Now, to take full advantage of the development benefits of the SADC-EU EPA, the country needs to roll out its strategies to increase and diversify its exports, develop its capacity to comply with quality standards, address remaining logistical and administrative obstacles relating to regional trade, and further build its capacity and resources to deal with customs and border controls.

In addition to the SADC-EU EPA implementation, some recent developments are favourable to business development. The Government is especially implementing: the 2018 Financial Inclusion strategy and the 2017 Public Finance Management Act; in 2015the Government developed a Grid Code and a Renewable Energy and independent Power Producer (RE&IPP) policy to create a transparent regulatory regime and attract investment as Eswatini imports over 80% of its electricity from South Africa and Mozambique yet it has the potential to generate its own energy using renewables. The Eswatini Sugar Association has also adopted a reinforced strategy to diversify its markets and products. However, the abolition of EU sugar quotas in October 2017 was followed by a sharp rise in sugar exports and revenue, acting as a disincentive to diversification. Exports of meat and high value crops (vegetables exports to EU, Africa and Middle East markets) are also areas of growing interest for local and foreign investors, and EU based importers. The parastatals SWADE and NAMBoard with support from the EU are mobilising farmers' companies, developing IT services and engaging with local and EU financial institutions to develop such value chains.

Despite this potential, there is a need to do more to attract private sector investment into the country at a particularly low level. The government is also aware of this need to attract both foreign and domestic investments to raise economic growth and employment and has presented

[41] The only active mining activities are for coal and quarry stones

recent initiatives to facilitate such investment, such as the Private Sector Development Strategy (PSDS), the Investor Road Map (IRM) and the Economic Recovery Strategy (ERS). Unfortunately, the actual implementation of these strategies is slow, with limited impact on the ground. Thus, the Eswatini Investor roadmap from 2005, relaunched in 2012, recommended various regulatory reforms to improve the country's competitiveness; but several key reforms remain to be completed and the momentum to improve the business/investment environment need to be regained (in the World Bank Doing business report 2018, Eswatini's' ranking has deteriorated and lags behind comparable economies or regional counterparts). Strategies for trade, investment or industrialisation lack harmonising. The legal and regulatory environment is unpredictable as the executive and parliamentary processes to draft and amend legislation are lengthy.

In this context of challenges and opportunities, facilitating contacts between the Eswatini Chamber of Commerce, the EU and Member States Chambers of Commerce based in Mozambique and South Africa, the Government of Eswatini and the EU Delegation will enable to jointly review trade and private sector developments in Eswatini and prepare adequate responses to improve the business/investment environment. Due account will be taken of initiatives of regional organisations of which Eswatini is a member, such as the COMESA Common Investment Area (CCIA).

The Federation of Eswatini Employers and Chamber of Commerce (FSE & CC) is a voluntary, non-profit making member-based organisation representing employers and businesses in all sectors of the Eswatini economy to promote trade and harmonious labour relations. As the apex body of the private sector in the country, it represents more than 80% of big businesses in Eswatini, and includes more than 400 companies of all the key industry sectors of Eswatini as well as the business associations of the country. The FSE&CC is a structured organisation that has established a board and also committees which work in the field of industrialisation, trade and commerce. The Federation of Eswatini Businesses focuses on strengthening small, medium micro enterprises.

One of the key documents to refer to is the Jobs and Growth Compact for Eswatini as the basis to implement the EIP and gain a clearer understanding of the context of this assignment. The Jobs and Growth Compact provides a thorough and organised overview of the private sector actors, European and otherwise, and of the opportunities and challenges of the local business and investment climate. It draws tentative lines of EU support to a more enabling policy and regulatory framework, to high-potential value-chains and generally to an improved structured dialogue with public and private stakeholders for job creation and sustainable growth.

2. Objectives and expected outputs of the EC TPSDE Facility mission

- Objectives of the assignment:

The main objective of this assignment is to facilitate the linking up between the Eswatini Chambers of Commerce and private sector representatives in Eswatini and the EU and bilateral Chambers of Commerce based in South Africa/Mozambique, with a view to facilitate and enrich the public/private sector dialogue on how to improve the business and investment environment in the country.

A second objective is supporting the operationalisation of the External Investment Plan (EIP) in Eswatini.

- Expected outputs:

The expected output of the assignment will be an integrated report covering the a.m. specific objectives of the assignment:

O1:

(i) Suggestions to advise stakeholders in the public and private sector on practical ways to reinforce and facilitate a structured dialogue between the Government of Eswatini and the Chambers of Commerce and the private sector at large on key barriers to doing business / attracting new investment in Eswatini, focusing on what can be done in 2019-2020,

(ii) A series of recommendations for developing a concrete action plan as a follow-up action in order to facilitate the contacts and exchanges between the Eswatini Chambers of Commerce and private sector representatives in Eswatini and the EU Chambers of Commerce based in South Africa/Mozambique, the bilateral Chambers of Commerce of the EU Member States based in South Africa/Mozambique, focusing on the 2019-2020 period;

(iii) Sharing and integrating the best practices of other European Chambers of Commerce in order for the Chamber´s work plan to integrate the SB4A approach (analysis of the investment climate and dialogue with government)

O2:

(iv) Advice on the legislation, policy reforms and policy dialogues needed in Eswatini to improve the business and investment environment in the short-, medium- and longer-term, taking into account the expertise and on-going activities of the EU and Member States Chambers of Commerce based in South Africa/Mozambique to improve the business/investment environment in the Southern Africa region;

(v) Exploring investment opportunities and potential use of the EFSD guarantee by private sector stakeholders in Eswatini based on the information available in the Project Investment Proposals in the five EFSD windows. As indicated under point 1, the analysis should equally take into account the existing the Jobs and Growth Compact and development cooperation portfolio in Eswatini (for example, the recent report on the beef value chain analysis is very informative).

The report will be complemented by a PPT presentation summarising the main findings and recommendations, to be presented at the de-briefing session at the EUD in Eswatini.

3. Activities

The following is an indicative and non-exhaustive list of activities that can be proposed to deliver the objectives and expected outputs set:

(i) To map legislation, policy reforms, policy dialogues needed in Eswatini to improve the business environment, on the basis of: a desk analysis of the existing legislation and policies /legislation and policies in preparation, of international analysis of Eswatini as

a business destination, of a business/investment survey on the perception of the Eswatini investment climate by EU and Swazi businesses.

(ii) To assess and prioritize promising sectors/sub-sectors for investment by EU businesses and identify restrictions to private investment that specifically affect those priority sectors.

(iii) Based on the proposed EFSD PIPs, explore potential investment opportunities and use of the EFSD guarantee by private sector stakeholders in Eswatini, taking into account also priorities as defined in the Jobs and Growth compact, i.e. focusing mostly on the Energy, Agriculture and SMEs windows.

(iv) To collect views of the Eswatini Chambers of Commerce and EU/Member States Chambers of Commerce, of the relevant public authorities on the relevance, format and feasibility of setting up a private sector indaba, field visits, dedicated meetings, other forms of public-private sector dialogues on addressing barriers to business and investment in Eswatini.

(v) To define precisely the type and format of technical assistance/capacity building that can contribute to empower the Eswatini Chamber of Commerce and Eswatini businesses to contribute to developing regulations, policies and activities improving the business environment in Eswatini.

The overall assignment will require intensive desk and outreach work. The challenge will be to produce quality content in a short period of time. The expert mobilised by the TPSDE Facility will interact with the Eswatini authorities in full coordination with the EU Delegation, the Ministry of Commerce Industry and Trade, the Ministry of Finance and the Ministry of Economic planning and Development and EU Chamber of Commerce.

4. Location, dates and duration

- Starting period: Foreseen starting date: 25th June 2018.

- Foreseen finishing period or duration: The period of implementation foreseen is 3 months. The assignment shall end when the EU Delegation to Eswatini will formally accept the final report.

- Working days: The assignment is estimated at 30 working days, with approximately 20 working days taking place in Eswatini (based on a 5 day working week).

- Location(s) of assignment: The assignment shall be performed from Eswatini specifically in Mbabane, including one mission to South Africa. Given the nature of the work, an office location at or close to the Ministry of Commerce Industry and Trade or Eswatini Chamber of Commerce & Industry should be considered in priority.

Meetings will take place at the duty station (Mbabane) and in the premises of Eswatini chambers of commerce and business associations in Eswatini.

The assignment will involve advocacy related meetings, which will take place mainly in Mbabane. Travel expenses incurred for the purposes of the assignment are reimbursed exclusively on the basis of the cost of the most appropriate and cost-effective means of transport between the place of employment and the place(s) of mission. Travel expenses will be covered by the contractor to the TPSD Facility, DAI Europe Ltd.

List of Companies Interviewed for Perception Survey

Company	Sector
Nedbank	Banking and Finance x 2
Montigny	Forestry
Pick and Pay	Retail
Mountain Inn	Tourism/Hotel
Galp	Energy (Fuel / oil)
Swazi Plantations	Agriculture
Times of Eswatini	Communication
Swacaa	Aviation (Service)
Total	Retail (Fuel)
National Maize Cooperation	Agriculture
Ngwenya Glass	Manufacturing
Exipro-Eswatini	Manufacturing
Stefanutti Stocks	Construction
Yebo Art Gallery	Services
Crane Feeds	Animal Feed Processing
Old Mutual	Insurance
PC Systems	ICT
Peak Timber	Wood and Timber
Tourism Association	Tourism
MSI	Food Processing
FSE@CC x 3	Eswatini Chamber of Commerce
Inyatsi Group Holdings	Horticulture
Afritool	Agricultural products and Implements
Kelly Cure	Private Sector Consultant to Montigny
Debbie Cuttings	Catalyse
Mitch Coker	US Embassy
The Place	Hospitality / Tourism
Eagles Nest	Agriculture

Bankable Investment Opportunities Requiring Funding

The following existing opportunities emerged during consultations, which could immediately be linked to possible funding under the EFSD guarantee and PIPs.

35MW Biomass Renewable Energy Proposal

Montigny, a Swazi-owned forestry and sawmilling company, is planning and proposing a 35MW biomass plant[42]. Montigny has had discussions with EIB but are deadlocked in negotiations with SEC and SERA with the initial price differentiation being the challenge in getting the project established. The scope of the project, investment cost and development impact is outlined below.

Table 16: Renewable Biomass Investment Synopsis

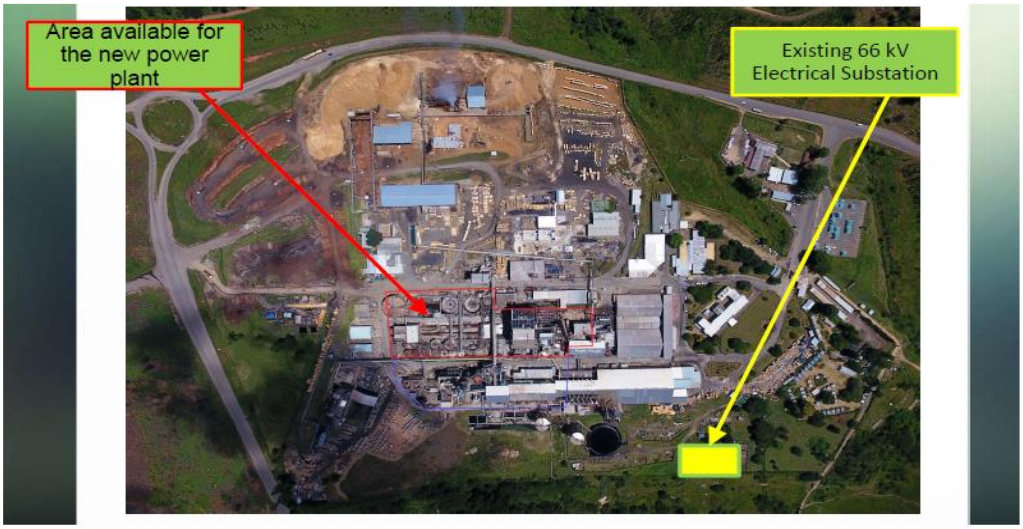
Project Description: Establishment of 35MW Bio-Mass Alternative Energy generation plant	
Investment Required to establish project	E1,5 billion
Promoters own contribution (10%)	E500,000
Location where to be established	Bhunya Mill Site, Swaziland. Montigny Investments owns this land already, this is the site where the woodchips are already located and is a logistically dvantageous location, lowest elevation in the plantation so heavy truck loads roll down hill and empty run up hill. This allows for the carbon footprint and cost of transpiration to be lower than comparable projects. Lead distance is 23 km where averages in typical forest estates are 75 km.
Timeframe to establish if finance secured	2 years of construction, subject to PPA finalisation
Return on investment .	This is a for profit operation supplying 23% of the country's baseload power straight to the national grid, with no off-take for the power producer. Financial model can be shared upon request with NDA in place.
Amount required to cover the price differential between existing cost of electricity and Biomass generated energy and over what period?	For this project only, we will require a 20 rand cent tariff subsidy per KWH. We are producing 33 MW net, rough estimate of requirement is ~20k euros over 5 ears. As mentioned, we would ideally like to develop a solar plant in parallel and could would benefit from additional funding to support this plant as well. Along with tariff subsidy, the project could benefit from technology finance subsidies as well. The capital cost is roughly 70k euros with a total project cost of 90k euros. As an aside, to bring the full country to 100% renewable energy supply with a mixture of solar, biomass and hydro, we estimate close to 70 million euros over 5 years (2021 - 2025 tariff subsidy)
Type of raw materials to be used	75% sawmill woodchips, 25% forest residue biomass
Raw materials volume needed p/yr	350 000
Raw material availability / sustainability	400,000 + woodchips only available from Usutu alone each year, not including community sourced biomass and surrounding forestry estates (within 75 km) here additional biomass can be procured. The project feasibility includes only biomass sourced from the immediate Usutu estate, as there is ample available.
Development Impact to establish project	
Direct employment to be created	250+ long term jobs
Indirect employment through multiplier (Each full time worker supporting 6 other)	1500
Estimated Gov revenue from PAYE	
Estimated Gov revenue from VAT	We have not separated out VAT but we have calculated a total annual expected GDP boost from the project to be +E300,000 per annum
New housing required in area (if any)	None required
Local Economic Development i.e. impact on l ocal communities in area & poverty reduction	This is profound. For the 30 chiefdoms that surround the 55,000 ha forest, the communities have very little economic opportunity. The communities are rural iving on subsistence farming with no industry outside of Montigny's operations. The expansion will empower more community members to manage their wattle jungles which will bring them additional income from the biomass. Also the reduction of forest fires and better environmental management will have a compounding impact on the value and productivity of their land. ancillary businesses will also spring up to support the collection and transport of biomass, which will bring additional positive upliftment.

[42] https://montigny.co.sz/renergy.html

Supporting information on project:

Site Location

The site location will be at Bhunya Eswatini as indicated in the photo below



Biomass Potential

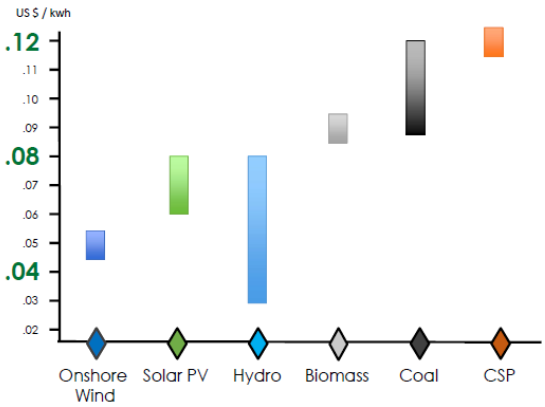
Eswatini's Biomass Potential amount to 158 MW as outlined in the table below:

Table 17: Eswatini Biomass Potential

Independent Power Producer	Total capacity (MW)
Montigny Usutu - Timber	33
Nhlangano - Timber	10
5 Sugar Mills	100+
Piggs Peak - Timber	15
Total	**158+**

Cost of Renewables vs Fossil Fuels:

The range in Levelised Cost of Electricity (LCOE) per source.



Biomass Power Plant detail

- Annual Biomass Consumption – 350 000 tons
- Power to be Produced – 37 MW
- Jobs created – 200+
- Per centage of Eswatini's energy demand – 23%
- Timeline to COD – 2.5 years
- Load Factor – 91%

Project Benefits

Table 18: Biomass Investment Benefits

Environmental	Economic	Energy
Unique transportation advantages	New employment sector	Provide baseload power supply
Carbon neutral	Market for biomass	20%+ of Swaziland's energy demand
Optimize biomass	Create 200+ jobs	Stability from local, renewable resource
Brownfield site	Stimulate investment opportunities in Swaziland	

One of the main benefits will be maximising timber waste for energy generation

Overview of Montigny Investments Limited

As a possible joint venture partner the following overview provides information on Montigny for a prospective EU investor.

Montigny Investments Limited is largest private, diversified forestry and sawmilling company in Southern Africa; is 100% Swazi-owned, a turnover of E2 billion, employs 6700 direct and 11,600 in total, operations in Eswatini, Mozambique an South Africa and is Forestry Stewardship Council (FSC) Certified. The table below provides an overview of present operations.

Table 19: Montigny Operational Review

Present operations	
Hectares of land	80,000+
Direct employment created	6700
Mills and Processing plants	8
Fire resources	350
Tonnes of annual fibre flow	1 million

Montigny's products offering utilizing nearly 95% of the tree's value is as follows:

- Structural timber: for roofs and flooring
- Wet off-saw planks: for pallets and crates
- Decking and furniture grade planks
- Mouldings
- School desktops
- CCA treated poles: fencing, building and transmission
- Mining timber including scaffolding and sleepers
- Charcoal
- Crude resin

- Timber for pulp and sawmills
- Biomass in Wattle, Eucalyptus and Pine
- Acacia Mearnsii bark for tanning
- Eucalyptus essential oils
- Kiln dried packaging timber

MK111 Horticulture Project

The MK111 horticulture project entails a potential PPP between SWADE, NAMBoard and Inyatsi Construction[43] but additional private sector investment is also required to establish the 300 Greenhouse horticulture project. The GoS through the Ministry of Agriculture is in the process of developing an agricultural production, processing and export zone (Agrizone) at KM111 International Airport for the benefit of the Swazi economy and NAMBoard and SWADE have been delegated to facilitate the establishment of the Agrizone in partnership with Inyatsi. The objectives are to:

- Contribute to National GDP through local and foreign exchange based income generation
- Improve standard of living of communities within airport periphery through job and entrepreneurship opportunities
- Activate the potential of the KM111 airport as a cargo hub for the sub-region

The anticipated (yet to be finalised) shareholding for the project is as follows:

Table 20: MKIII Shareholder Options

Parties	Shareholding
INYATSI	30%
SWADE	20%
NAMBOARD	20%
EU Investor	30%

Other stakeholders include SWACAA for Airfreight logistics, the Ministry of Housing and Urban Development (land and roads) and local farmers and community for labour and skills. The project will be implemented over a 4 year period to operate 300 tunnels in the following phases.

- Phase 1a (50 no 20mx30m tunnels)
- Construction and operation – Year 1
- Order, delivery and installation – 2months
- Phase 1b - (50 no 20mx30m tunnels)
- Phase 2 – 100 tunnels (100 no 20mx30m tunnels)
- Phase 3 - 100 tunnels (100 no 20mx30m tunnels)

The projected planning and capital expenses are outlined in the tables below.

[43] http://www.inyatsi.net/

Table 21: MKIII Planning and Capital Costs

Description	Amount (SZL)
Capital costs	SZL 122 398 741
Tunnels Direct Operations (Yr 1)	SZL 2 921 524
Pack house Direct Operations (Yr 1)	SZL 30 637 200
Project overheads (Yr 1)	SZL 2 568 000
Total	**SZL 158 525 465**

Item	Amount (SZL)
Tunnels	SZL 57 391 655
Access Road, Packhouse and Office	SZL 47 420 423
Electrical generator, Water supply	SZL 17 586 663
Total	SZL 122 398 741

The planned product categories and market segments are outlined in the tables below.

Table 22: Horticulture Market Preview

Crop category	Number of Tunnels	Comments
Cucumber	60	80% for export
Peppers (Yellow, red and chilli)	180	90% for export
Tomatoes	60	50% for export
		50% for local market and processing

Commodity	Volume	Value	Destination
Baby vegetables	1000 Mt / Annum	E30 Million	France Switzerland Netherlands UK
Conventional (Butternut, Sweet Potatoes, Pumpkins)	1,7000 Mt / Annum	E10 Million	Netherlands
Conventional (Chilli Peppers, Sweet Peppers, Cumcumbers) - Tunnel production	4,000 Mt / Annum	E50 Million	Netherlands UK (Formal) France Seyschelles
Conventional (Sweet Potatoes, Pumpkin, Others)	1,000 Mt / Annum	E8 Million	UK (Traditional Markets)

The KM111 project will create a total of 400 employment opportunities at full project implementation.

Work plan

1. Desk Inception Phase (Eswatini) 04.07 – 11.07 (6 days)

On the basis of the information, the evaluation team should:

- Document Review
- Comment on the terms of reference
- Comment on the issues/activities to be undertaken
- Propose a detailed work plan for the assignment
- Confirm the final time schedule
- Submit Inception Report (for approval/adoption)

2. Field Phase (Eswatini) 12.07 – 31.08 (14 days)

On the basis of the information, the consultant team should:

- Engage in structured consultations with the following:
  - ✓ Private sector companies and individuals
  - ✓ Government Ministries and officials
  - ✓ Development Institutions
  - ✓ Chambers of Commerce in Eswatini
  - ✓ Mission to South Africa to meet with EU Chambers of Commerce

3. Synthesis Phase (Eswatini & Home based) 06.08 – 08.08 (5 days)

On the basis of the information, the consultant should:

- Produce an Aide Memoire/Briefing Workshop before conclusion of the field phase (01.08.2018)
- Incorporate stakeholder initial assessment/feedback into drafting of the Final Evaluation Report

4. Reporting Phase (Home Based) 08.08 – 15.08 (5 days)

On the basis of the information, the consultant should:

- Produce draft Final Report and submit for stakeholder feedback (11.08.2018)
- EU-SADC response to draft Final Report to expedited within 2 weeks (25.08.2018)
- Produce Final Report, incorporating stakeholder feedback, for approval (30.09.2018)

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Consultations Conducted

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36. Spanish Chamber of Commerce South Africa	Cristina Antoja Isobel Sanchez	Cristina.a@spaincc.org Isabelm95@gmail.com
37. Pick n Pay	Wilhelm de Koker	dekoker@gmail.com 76375533
38. Eagles Nest	Derek Chester	268 7624 0386
39. Avocado Farm	David Neyer	268 7802 0072
40. Umbiluso	Anthony Harding	268 7602 1873
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