



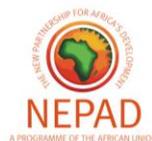
# Accelerating reform in Africa: Mobilising investment in infrastructure and agriculture

Africa Investment Initiative

## Highlights of the Policy Framework for Investment in Zambia



*This document has been prepared as a background document for the 5<sup>th</sup> NEPAD-OECD Ministerial Conference on 26-27 April 2011 in Dakar, Senegal. The Ministry of Commerce, Trade and Industry of the Republic of Zambia partnered with the NEPAD-OECD Africa Investment Initiative in 2010 to undertake a comprehensive investment review based on the OECD Policy Framework for Investment (PFI). The Government of Zambia established a Technical Implementation Team that took the lead in this self-assessment. The views contained within do not necessarily represent those of NEPAD, the OECD or their member governments.*



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## 1. ADVANCING INVESTMENT POLICY REFORM

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Zambia has achieved important progress in terms of strengthening its policy framework for investment over the past few years. Zambia began to liberalize its trade regime in the early nineties, and embarked on a privatization programme in 1992, initially by targeting a few, small-scale companies. In 2004, Zambia introduced the Private Sector Development Reform Programme, with its first phase (PSDRP I, 2006-2009) aiming to improve the investment climate to boost the private sector's contribution to economic growth. It focused on strengthening public agencies that support PSD; improving the investment code and regulatory framework; encouraging private investment in infrastructure; business facilitation and economic diversification; trade expansion; and citizens' empowerment.<sup>1</sup> The successor to this programme, PSDRP II, has been scheduled for the period between 2009 and 2014. The Government has articulated the country's long term development objectives in the National Long Term Vision 2030.

As privatization gained momentum, FDI began to increase, while real GDP growth averaged 4.8% between 1999 and 2009 and reached 6.3% in 2009.<sup>2</sup> In fact, Zambia attracted more FDI than Malaysia in 2009. In terms of investment flows, Zambia received US\$1.3 billion in FDI commitments in the first quarter of 2010 alone, which mirrors the upward trend since 2008, while extractive industries continue to attract the bulk of investment. As for human development, Zambia has reduced infant and maternal mortality; increased primary school enrolment from 65% in 1997 to 95% in 2007, due to the introduction of free primary school education in 2002; and increased per-capita income from US\$680 in 2006 to US\$980 in 2009.<sup>3</sup>

In addition, Zambia undertook reforms that made it easier for enterprises to do business. These included abolition of price controls, liberalization of interest rates, abolition of exchange rate controls, 100% repatriation of profits, free entry investment in virtually all sectors of the economy, trade reforms aimed at simplifying and harmonizing the tariff structure, and removal of quantitative restrictions on imports. Moreover, it shortened the time taken for business name registration and company incorporation was shortened from 21 days to 3 days. It has also improved its ranking on the Doing Business Index, moving from 90 in 2009 to 76 in 2010; cut the number of days to start a business and the time required to register property virtually by half; and made notable progress in strengthening legal rights and making it easier for companies to hire workers. A snapshot of Zambia's recent achievements in business reforms is provided in Box 1.

However, a key challenge remains: spurring more domestic and foreign investment, and subsequently enhancing Zambia's economic diversification and development. To that end, the Government undertook an assessment of Zambia's investment-related policies against the OECD Policy Framework for Investment (PFI) in 2010-2011, which allowed for an integrated evaluation of the different policy areas affecting the country's investment climate. The following sections provide highlights from the assessment by policy area, while pointing at key elements that would support Zambia in achieving its development objectives through private sector development.

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<sup>1</sup> Siame, 2007

<sup>2</sup> AEO, 2010 and EIU, 5/2010

<sup>3</sup> IMF, 2009 and EIU, 5/2010

### **Box 1 – Zambia’s Doing Business achievements<sup>4</sup>**

- Sixth world-wide in getting credit;
- Fourth best reformer world-wide for starting a business;
- Best in COMESA on getting credit;
- Third in COMESA on overall ease of doing business, starting a business and paying taxes;
- Second in SADC in starting a business and getting credit;
- Fourth in SADC in paying taxes and
- Fifth in SADC in overall ease of doing business.

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## **2. INVESTMENT POLICY**

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### **From a state-dominated to a private sector-driven economy**

The Government has taken various steps to ensure investment laws are clear, transparent and accessible. During the 1990s, it instituted economic reforms aimed at liberalizing the economy in order to foster economic growth and development. The reforms included:

- Abolition of price controls
- Liberalization of interest rates
- Abolition of exchange rate controls
- 100% repatriation of profits
- No restrictions on investment in virtually all sectors of the economy
- Privatization of state-owned enterprises
- Trade reforms aimed at simplifying and harmonizing the tariff structure
- Removal of quantitative restrictions on imports

The reforms were designed to introduce a market-based and private sector-driven economy, rather than the state-dominated economic system that prevailed. Various pieces of legislation were enacted, and statutory institutions created, to implement the reforms. Among these institutions were the Zambia Investment Centre (ZIC), the Export Board of Zambia (EBZ), the Zambia Privatization Agency (ZPA), the Zambia Export Processing Zone Authority (ZEPZA) and the Small Enterprises Development Board - each with specific mandates focused on promoting trade and investment in the country.

Under the Private Sector Development Reform Programme (PSDRP), the Zambia Development Act of 2006 merged these institutions to form the Zambia Development Agency (ZDA). The Act aimed to rationalize investment and trade promotion activities, and to operationalise the concept of a one-stop-shop for investment facilitation. The ZDA is also responsible for promoting complementarities between government and private sector investment through Public-Private Partnerships (PPPs) in infrastructure projects.

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<sup>4</sup> World Bank Doing Business, 2009

## Implementing Land Policy

The Ministry of Lands is responsible for land administration and implementing the land policy. The Ministry has been working in cooperation with the ZDA and line ministries such as the Ministry of Agriculture and Cooperatives, to set up land banks for reservation for investors willing to invest in priority sectors. For instance in the agriculture sector, farm blocks have been identified in all the nine provinces for possible development by interested investors. By December 2010, the following farm blocks had been identified for potential investors:

<b>Farm Block</b>	<b>Province</b>	<b>District</b>	<b>Size (Ha)</b>
Nansanga	Central	Serenje	155,000
Kalumwange	Western	Kaoma	100,000
Luena	Luapula	Kawambwa	100,000
Manshya	Northern	Mpika	147,000
Mikelenge/Luma	North-Western	Solwezi	100,000
Musakashi (SADA)	Copper-belt	Mufulira	100,000
Muku	Lusaka	Kafue	100,000
Simango	Southern	Livingstone	100,000
Mwase-Phangwe	Eastern	Lundazi	100,000

This set-up eases access to land for investors, as 94 percent of Zambia's total land falls under the Customary Land Tenure System and the farm blocks have been established with the consent of local authorities. This is particularly important given the sensitive nature of land ownership for investment in Zambia. In addition, heavy land development approvals can lead to delays in registering land. Currently, land can be bought and sold by private buyers, and title deeds issued by the Commissioner of Lands upon application. In all instances 'State Consent' has to be obtained by the vendor before title deeds can be passed on to the purchaser. If consent is not granted within 45 days of filing the application, then the application is approved by default. Land disputes are referred to the Lands Tribunal for arbitration to fast track the resolution of land disputes.

In addition to the farm blocks, industrial land is being identified for the establishment of multi facility economic zones (MFEZs) and industrial parks for investment purposes. Four MFEZs with special features for investors, including access to key business infrastructure have so far been announced and are under construction: the Chambeshi MFEZ, the Lusaka South MFEZ, the Lumwana MFEZ, and the Lusaka East MFEZ. Several other areas have been identified for similar MFEZs in Zambia. Anyone doing business is free to locate in a MFEZ with the permission of the developer through ZDA. Also, a minimum threshold of US\$500,000 needs to be met and directed to some parks, or a MFEZ priority sector or product, for the investing company to qualify for incentives. However, this threshold raises entry barriers for local investors and small and medium enterprises (SMEs).

The government has also opened up a Customer Service Centre at the Ministry of Lands to provide information on land transactions. A foreign investor can acquire and obtain land titles as long as they have been granted investor status under the Lands Act or any other law pertaining to investment in Zambia.

A land information system is in place and covers registration of land ownership, and transactions related to surveying, allocating and securing land titles. However, implementation has been slow, and the system is still ineffective. A pilot land audit was undertaken in four provinces – Central, Copperbelt, Lusaka and Southern, but could not be completed due to inadequate resources. For the

same reason, the Government has not been able to complete cadastral surveys undertaken through the PSD.

### **Protection of property rights**

The MCTI and the Patents and Company Registration Agency (PACRA) are the leading institutions with regards to the design and implementation of intellectual property laws. Considerable effort has been made to modernise and align Zambia's intellectual property legislation to international standards. Consequently, the Intellectual Property Rights Policy and its implementation plan, aimed at merging Intellectual Property and Copyrights Laws, were launched in 2010. These measures are expected to improve the environment required by the private sector to encourage creativity and innovation.

Zambia is also a signatory to a number of international agreements on patents and intellectual property such as the World Intellectual Property Organization (WIPO), Paris Union, Bern Union, African Regional Industrial Property Organization (ARIPO), and the Universal Copyright Convention of UNESCO. Enforcement procedures governing intellectual property are coordinated by the Intellectual Property Unit (IPU) of the Zambia Police Service.

The courts in Zambia are reasonably independent, however contractual and property rights enforcement is weak and final court decisions can take a long time.

### **Investor protection and international agreements**

The Zambian Constitution Act and ZDA Act provide protection for property rights of investors - property may only be expropriated by an Act of Parliament. Moreover, the law states that compensation must be at a fair market value and convertible at the prevailing exchange rate. Land, which is held under 99-year leases, may revert to the Government if it is deemed to be undeveloped. So far, no privately held land has thus been reverted. Also, the investment code stipulates the Zambian High Court as the first resort for internal dispute settlement. Failing that, the parties may go to international arbitration, which the state recognizes as binding. Zambia is also a party to the World Bank's Multilateral Investment Guarantee Agreement and the African Trade Insurance Agency, and is a member of the International Center for the Settlement of Investment Disputes (ICSID) and the United Nations Commission of International Trade Law (UNCITRAL).

Furthermore, the Government signs Investment Protection and Promotion Agreements (IPPAs) with private companies as one of the measures aimed at promoting and facilitating large and impactful investments. Since 2008, the Government has signed IPPAs with 36 private companies. The total pledged investment by these companies is US\$ 6 Billion and pledged employment of 37,000 over a period ranging from 3 to 10 years. IPPAs are bound to existing national laws and do not provide further guarantees.

Zambia has signed eleven (11) IPPAs with other countries since 1966 and just two of them have been ratified (with Germany and Switzerland). More efforts have been put in place to sign agreements with Zambia's priority countries.

Although IPPAs can be used to promote specific investments, they also reveal some weaknesses in the general investment regime. For instance, investor protection issues are a grey area in Zambia and there has not been any coherent policy and implementation framework put in place. Moreover,

the term “national interest” is used in relation to the expropriation clause without full clarification of the specific areas it encompasses.

### **Non-discrimination and modes of registration**

Non-discrimination is a general principle underpinning investment laws and regulations in Zambia. In this regard, the ZDA does not give preferential treatment on the basis of origin. In fact this policy is often criticized by local businesses, who assert that the Zambian investment system favors foreign investors more than the existing local investors.

A foreign investor can register a company which may be private limited by shares, or limited by guarantee, or unlimited companies. Furthermore, Zambia has no foreign exchange controls and foreign investors are free to repatriate 100% of profits and capital after settlement of all local obligations. However, processes such as business licensing and investor screening that were established through the ZDA Act may be a deterrent to investment and need to be considered for reform. The Business Licensing Reform Programme is laudable in that regard, as is seen below.

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## **3. INVESTMENT PROMOTION AND FACILITATION**

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### **Main strategy to promote and facilitate investment**

In order to address the general business environment challenges, the Government launched the Private Sector Development Reform Programme (PSDRP 1) in 2004. Its overall objective was to lay the foundation for faster, sustained, private-sector led growth by improving the investment climate. During implementation from 2006 to 2009 the programme saw a number of policy achievements, such as the establishment of the ZDA and the Citizens Economic Empowerment Commission; the approval of policies in Information Communication Technology (ICT) Policy, Energy Policy, Public Private Partnership Policy and Micro Small and Medium Enterprise Development Policy; the creation of the Public Private Partnership (PPP) Unit; and the establishment of a Credit Guarantee Scheme for Micro and Small Enterprises. To support in the implementation of these policies, and thus further improve the business environment, the programme was extended into the PSDRP II, which is set to run from 2009 to 2014. Areas of focus include business licensing and regulatory framework; labour reform and labour productivity; and PPP development. In addition, the tourism, agriculture and manufacturing sectors have been prioritized. Other investment climate programmes include the Triangle of Hope (ToH) initiative, which is modeled on the Malaysian and Far East Asian development experience and sponsored by the Government of Japan.

To stimulate private sector investment, the Government has put in place a package of investment incentives through the ZDA Act, such as statutory protection of investment and the right to repatriate 100 percent of profits and dividends without any restrictions. Specific investment incentives for qualifying local and foreign investors are clearly indicated in the Act, as well as in the section on taxation.

The ZDA Act provides for additional incentives for investments of US\$ 10 Million in priority sectors involved in value addition (see Annex 1 for a list of the priority sectors). This is a progressive step, yet measures to spur smaller investments, with potential for diversifying and modernizing the economy through innovation, should also be considered and implemented systematically.

## **Zambia's investment promotion agency – the Zambia Development Agency (ZDA)**

The Zambia Investment Centre (ZIC) was the first autonomous investment promotion agency in Zambia established under the Investment Act of 1991, as part of the Government's strategy for economic reform. Its creation formed an integral part of the country's structural adjustment programme and liberalisation policy. In 2006 the ZIC was merged with four other statutory bodies to form the ZDA. Established under the ZDA Act, the agency became operational in 2007 with a key mandate of fostering economic development through the promotion and facilitation of both direct investment and trade.

The agency is a central player in the implementation of the PSDRP II, which was formulated to reduce the cost of doing business in Zambia. It has facilitated the streamlining of business licensing procedures through a comprehensive Business Licensing Reform Programme (BLRP). This is based on the premise that most business licensing processes and procedures in Zambia lack transparency, are time consuming and are in many cases unnecessary. By the end of 2010, 92 business licences were eliminated while 43 were reclassified and 13 amalgamated into 4 licences resulting in savings worth approximately US\$ 14.3 million (K68.8 billion) for the private sector. An additional US\$ 16.2 million (K76.5 billion) was saved through the reclassification of 38 Local Authority licences into a single direct levy.

The programme has also facilitated improvements in various other administrative processes relating to business establishments. As a result Zambia's rank out of 183 economies on the World Bank "Ease of Doing Business" rankings has moved from 90 in 2009 to 76 in 2011. Indeed, Zambia has been recognized as being among the top ten global reformers in the world in 2010.

Another key milestone is the One Stop Shop (OSS) for investment facilitation, which was launched in 2010 and housed in the ZDA, where it is now fully operational. It aims to provide both local and foreign investors with fast, efficient and business-friendly services and assistance at the start-up stage. The OSS brings all relevant institutions into one location - including the Patents and Companies Registration Agency (PACRA), the Zambia Revenue Authority (ZRA), National Pensions Scheme Authority (NAPSA), Citizens Economic Empowerment Commission (CEEC), Immigration Department, and the Zambia Public Procurement Authority (ZPPA). While the establishment of the OSS is laudable, it is too early to effectively evaluate its operations.

### **Monitoring investor performance and consultations with the Government**

As required by law, ZDA undertakes monitoring exercises to measure the extent to which the investment and employment pledges made by companies with investment licenses have been fulfilled. The ZDA then presents reports to the ZDA Board's Sub Committee on Project Performance Monitoring. In principle, the monitoring exercise also serves as a mechanism through which the agency gathers information on investor concerns and perceptions with regard to the general business environment and investment climate. However, further analysis is needed on how this information is being used to translate into actual reforms. The Government has also established other formal structures for dialogue with investors, including Sector Advisory Groups (SAG), the PSD Steering Committee and the Zambia Business Advisory Council (ZIBAC).

In terms of consultations with Government and other statutory agencies, ZDA participates in a number of inter-agency networks with different stakeholders. Because of the cross-cutting and multi-sectoral nature of its work, the agency provides input into a number of consultative processes of different stakeholders at policy-making level. In the same regard, it provides opinions to other

sector-specific regulatory Government Departments and Statutory Bodies on the general business effects of various transactions within their domain.

### **Investment incentives and linkages promotion**

The incentives offered by Zambia have been included in the trade policy review undertaken by the WTO, to which all WTO members have access. While this ensures transparency, no evaluation of the cost and benefits has been undertaken other than the reviews by the ZDA Board and periodic reviews by the parliamentary accounts committee.

In terms of promoting small businesses and linkages with larger investors, there is a linkages programme supported by UNCTAD and the ILO. However, ZDA could play a more active role in investor-supplier match-making beyond the organization of business delegations and international trade missions to other countries. This would also help address the non-discrimination policy for foreign investors, as highlighted earlier.

There are also incentives provided to SMEs Furthermore, through the Citizens Economic Empowerment Commission (CEEC) , Government also provides incentives such as preferential procurement for companies that have local participation.

### **International benchmarking and challenges**

International benchmarking studies, comparing ZDA to agencies like BEDIA of Botswana, MIDA of Malaysia and RBA of Rwanda, revealed that ZDA's mandate was relatively broad and that it does not benefit from the strong political support that RBA, for example, which is located in the President's office, enjoys. This translates into bottlenecks for funding and for liaising and coordinating closely with other line ministries and institutions.

During the three years of the agency's existence, funding to ZDA has not been adequate to enable it to perform all its legislatively mandated functions of promoting trade and investment, responding to public policy requirements and meeting stakeholder expectations. There is general lack of manpower and financial resources required for it to effectively promote investment in the country. The funds from Government largely cover emoluments and administrative costs. Programme funds are largely donor dependent and may not necessarily be in line with the agency's objectives, as the donors have their own priority areas for which their funds have to be used.

Results from studies, such as the benchmarking exercise, led to the ZDA receiving future funds from the administrative budget of the Ministry of Commerce, Trade and Industry while the allocation for operations has been increased and will be funded under the Ministry of Finance and National Planning as of 2011. More specialized services, such as through effective match-making, market-information provision and investor after-care services should be enhanced on a marketable basis to open up new sources of funding. Also, there have been no formal indicators developed for monitoring the performance and impact of the ZDA, even though it has been in operation for three years now.

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## 4. TRADE POLICY

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### **Recent trade facilitation efforts to reduce the compliance costs of customs, regulatory and administrative procedures**

A series of programmes have been undertaken by the Government aimed at reducing compliance costs of customs regulatory and administrative procedures at the border. These include the construction of border infrastructure such as the Chirundu one stop border post with Zimbabwe, the on-going construction of other border infrastructure at Kasumbalesa with DR Congo, and the Nakonde border post with Tanzania. Other border posts are being constructed at Katimamulilo in Shesheke district bordering Namibia and Kazungula bordering Zimbabwe and Botswana.

Electronic systems to facilitate the clearing of imports and exports have also been introduced. The introduction of E-payment, which allows importers and exporters to pay customs duties and taxes electronically while customs authorities provide receipts electronically is one example. This has helped to reduce delays at border posts as well as the costs associated with travelling to and from the entry point to settle payments. Further, the introduction of ASYCUDA systems and electronic scanners at Chirundu and Livingstone border posts have facilitated border agency co-ordination in terms of electronic filing systems and inspections of cargo goods respectively. Moreover, the electronic system has dramatically reduced the time taken to inspect the cargo.

The Government has also implemented a series of client specific programmes such as the Customs Accredited Client Programme (CACP) for swifter cargo transit. In addition to the bill that allows the pre-clearance and pre-lodgment of entries before the cargo actually arrives, these measures are expected to reduce delays at the border.

Finally, regional programmes to facilitate regional integration through cross border trading are being implemented. These include the COMESA simplified regime for quick movement of goods across borders, which includes agreements with Malawi and Zimbabwe, while discussions are under way with the Democratic Republic of Congo. Also, the provisions of the law on the engagement of clearing agents for customs clearance purposes were revised to facilitate small-scale trading.

Besides the progress mentioned above, challenges prevail in the area of border agency co-ordination and the establishment of the single window system, which entails single entry payment for importers and exporters. This could significantly improve the efficiency of clearing the cargo at border posts.

### **Improvement of trade policy certainty and predictability for investors**

Trade policy is currently part of the national development strategy and is defined through multi-stakeholder consultations organized by the MCTI. These revolve around six sub-working groups chaired by the private sector while the ministry houses the secretariat. The main consultative structure is the sector advisory group (SAG) encompassing representatives of the private sector, civil society, the donor community and government agencies. However, the irregular meeting schedules of the national working groups affects the continuity and effectiveness of a process aimed at contributing to transparency and predictability of trade policy formulation and design.

With regard to regulations, the Government has also signed the revised Kyoto protocol (RKP) which outlines international best practices in trade.

## **Increasing investment opportunities through market-expanding international trade agreements and the implementation of WTO commitments**

Zambia has regional and international integration programmes aimed at expanding its trading links and volumes. It is a member of a number of regional and international groupings aimed at expanding markets for domestically produced goods and services. These include the Common Market for Eastern and Southern Africa (COMESA), which is currently a customs union, and the Southern Africa Development Community (SADC) Free Trade Areas (FTA). Zambia is also in the forefront in pushing for the establishment of the Tripartite Free Trade Area composed of COMESA, SADC and the East Africa Community. In addition, the Government has signed and is currently implementing a number of bilateral trade agreements such as with China, Canada and Japan.

Zambia is a member of the World Trade Organization (WTO) and currently chairing the LDC group at WTO. It is part of the Cotonou agreement and has benefited from duty-free, quota-free market access for the European market under the Generalized System of Preference (GSP) and the Everything But Arms (EBA) arrangement - and for the US market under the African Growth and Opportunities Act (AGOA). Zambia has also been negotiating for further market access through the economic partnership agreements (EPAs) under the eastern southern Africa (ESA) group with the European Union.

The above measures provide regional openings for the private sector to take advantage of larger foreign markets. The major challenges remain, however, the low productive capacity of local businesses, especially SMEs, to take advantage of the opportunities, as well as some of the transit and border issues mentioned above.

## **Distortions arising from selective sector policies for trade and investment; rise in cost of inputs of goods and services**

Currently there are six sectors that have been considered as high-priority and hence efforts in terms of attracting investment have concentrated in these sectors. These include processed foods, textiles and garments, engineering products, gemstones, leather and leather products, and wood and wood products. Although there is a consultative process that has been set up to deal with the priority sectors under the national export strategy document, there is no formal process to review the cost associated with the distortions that have been created through encouraging investment in the priority sectors.

Trade policy in Zambia has often contributed to raising the costs of inputs and this has to some extent created distortions that have hampered the possibility of acquiring cheaper inputs. Trade taxes have often discouraged outsourcing of the raw material from cheaper sources and this has raised the production costs for domestic businesses and discouraged investment in these sectors. This has been clearly manifested in the import of coils and raw materials for pharmaceuticals, resulting in higher costs of production, thus affecting the Zambian supply-side capacity.

The current Zambian trade policy is export-oriented and hence exporters enjoy a number of preferences which range from lower corporate taxes on export revenues, duty drawback, and VAT deferment. The Government is also giving incentives for industries that will be set up within the MFEZ that are aimed at value addition to local raw materials aimed for export markets. Yet, there is no structured export finance strategy in Zambia although short term projects targeting MSMEs, like Market Access Trade and Enabling Policies (MATEP), have in the past been implemented. However,

ZDA houses the Zambia Export Development Fund (ZEDF) aimed at assisting the MSMEs. Access to this credit works through the mutual responsibility principles assumed by Producer Associations.

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## 5. TAXATION

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### **Tax burden and investment attraction strategy**

The legislative framework of taxation in Zambia is provided by the Income Tax Act and the Customs and Excise Act of the Laws of Zambia. The taxation of companies in Zambia is marked by multiple rates and preferential treatment. There are tax incentives and different tax rates across different sectors resulting in a low yield in terms of corporate taxes.

There is a general corporate tax rate of 35 percent, however, there are sector-specific multiple tax rates. Some of these sector-specific rates are 15% for agriculture, 30% for mining, 15% for manufacturing of fertiliser, 15% for non traditional exports, and 15% for charitable organisations carrying on business. Tax incentives and sector-specific incentives have set the corporate Income Tax burden at 2.7% of GDP, which is lower than the regional average of 2.94% - part of a Government strategy to attract more Foreign Direct Investment (FDI).

Zambian exports fall under specific trade agreements such as AGOA, the General System of Preference (GSP), COMESA – FTA, SADC Trade Protocol, and the SADC-MMTZ – (Mozambique, Malawi, Tanzania and Zambia) Agreement which entails preferential treatment, a waiver, or reduction of duty rates in the respective countries.

Value Added Tax is charged at 16% on all goods and services falling within the VAT taxable goods and services category. Some adjustments were made as of 1st January 2010, in particular the introduction of a standard rate of VAT on the sale of commercial property.

In terms of incentives, the ZDA Act provides for a wide range of incentives for companies holding an investment license. These range from duty-free imports of most capital equipment for the mining and agriculture sectors to a development allowance of 10% of the cost of capital expenditure on the growing of coffee, banana plants, citrus fruits or similar plants.

Zambia has also signed double taxation treaties with Canada, Denmark, Finland, Germany, the Netherlands, Ireland, Italy, Japan, Kenya, Norway, Romania, Sweden, Tanzania, Uganda, the United Kingdom, India, France and South Africa, while the treaties with Mauritius, Yugoslavia and Zimbabwe are still to be ratified.

### **Tax burden on domestic profits and objectives of the tax system**

The average Tax Burden on Profits is 10% in Zambia, allowing for incentives and compliance. The average marginal effective tax rates for SMEs at 22.5% is higher than that of large companies as most SMEs do not enjoy the tax incentive and tax relief schemes that the large corporations enjoy. For example, most SMEs are not registered for VAT as they do not meet the minimum VAT threshold of K200 million turnover per annum, and therefore are not able to make input tax claims of their purchases and costs of production.

The main goal of Zambia's Tax System is to efficiently raise revenue for Government expenditure. The sectoral tax burden indicates Government core sectors to attract FDI, namely tourism, mining and manufacturing. .

The Government should consider extending a low tax burden to other sectors of the economy in order to attract more investment. In addition, it could also consider simplifying the tax structure and moving from an incentive-based investment attraction strategy towards one based on strengthening the enabling environment for businesses, large and small, to develop. In Zambia, the Corporate Income Tax has multiple rates, which differ by location. Firms located in the MFEZ and Industrial Parks enjoy lower effective tax rates and other incentives. Furthermore, some sectors of the economy enjoy lower tax rates compared to others, while protective duties are imposed on some industries to promote local manufacture of the products in these industries.

The existence of differential rates is meant to attract firms to locate in certain places to boost investment in particular sectors of the economy. Though this is a good intention, it could lead to resource misallocation in the economy. Businesses tend to set up in places where it would not be profitable to produce if these incentives are not there. Multiple tax rates burden the tax administration and encourage tax planning activities by businesses.

It is therefore not surprising that multiple tax expenditures – principally in the form of multiple and lower than standard corporate rate – reduce the Corporate Income Tax (CIT) yield to 2.7% of GDP, which is lower than the unweighted average for SADC and EAC. Also, the revenue productivity of 0.8% is below the unweighted regional average of 0.11%.<sup>5</sup>

### **Targeted tax incentives for investors and unintended tax-planning**

As seen earlier, the Government offers, mostly through ZDA, several tax incentives to companies, especially those involved in the production of exportable goods. In addition, most manufactured goods emanating from SADC and COMESA are exempted from tax.

There is a growing trend whereby companies engage in business activities that encompass both sectors that have incentives and those that do not. In this way, companies may engage in tax planning activities where more profits are declared in sectors with tax incentives. Furthermore, companies undertake unintentional tax planning activities such as setting up business in sectors where they would not have invested had the incentives not been in place. There is a danger that such businesses may close down at the time the incentives expire and probably relocate to a sector which will be receiving incentives at the expiration of current incentives.

Every year, the Government announces its National Budget, which includes the revenue losses resulting from implementing proposed incentives. However, there is no current report that details revenue losses arising from tax planning activities. In this regard there is a need for a study to detail revenue losses arising from tax planning activities as a result of tax incentives that Government offers to potential investors.

Tax incentives distort the investment environment. In addition to weakening the Government's domestic resource mobilization base, administering the tax incentives is a major challenge. Companies that hold investment licences issued with incentives have to go through a lengthy

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<sup>5</sup> Revenue productivity is the relationship between the tax revenue and the GDP. It is a measure of whether the revenue system is responsive to economic development or not.

bureaucratic process to access the incentives. In addition to revising the rationale behind providing incentives, taking into account the associated costs and losses to the Government, there is a need to streamline the processes of accessing the incentives for the convenience of investors. This could include enhancing coordination among the ZDA and ZRA on the administration of the tax incentives, by linking up the information management systems and databases on tax incentives of the two organizations. In this way, the tax incentives approvals issued by ZDA and validated by the Ministry of Finance could easily be captured and reconciled by ZRA.

### **Tax policy and tax officials' cooperation with their counterparts in other countries**

Tax officials are working closely with their counterparts in other jurisdictions through organisations such as the African Union, OECD, African Tax Forum, World Customs Organisation, Southern African Development Community, and COMESA. An example of the outcomes of networking on tax treaties are the double taxation agreements that Zambia has signed with a number of countries.

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## **6. FINANCIAL SERVICES**

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### **Capacity of the financial sector to support enterprise development**

The regulatory frameworks in Zambia used to evaluate the capacity of the financial sector comprise the Banking and Financial Services Act, the Bank of Zambia Act, the National Payment Systems Act, the Prohibition and Prevention of Money Laundering Act, the Bank of Zambia Anti-Money Laundering Directives, and the Bank of Zambia Corporate Governance Guidelines. For the evaluation and enhancement of the capacity of the financial institutions, the regulator has adopted Risk Based Supervisions (RBS) for the legislative framework and the determination of capital adequacy. These are done based on the Basel II principles and there has been an introduction of a deposit insurance scheme, while the central bank is enhancing the lender of last resort function. There has also been an enhancement of cross-border cooperation through consolidated supervision of financial institutions, and work is continuing on improving the financial sector through the implementation of the second phase of the Financial Sector Development Plan. The latter seeks mainly to boost market infrastructure, increasing competition and access to finance and also to deal with longer-term issues including the harmonization of financial sector laws, the full establishment of an independent Financial Intelligence Unit and the implementation of a national switch.

Zambia has also adopted the Southern African Development Community (SADC) Central Bank Model law and is in the process of implementing it domestically. The law has enshrined 3 pillars of central banking - independence, accountability and transparency. The Bank of Zambia embarked on a process of reforming and modernizing its legislation based on this model law.

This exercise has resulted in a draft Bank of Zambia Act whose features are: provisions to strengthen the legal basis, ownership and structure of the Bank of Zambia as a modern central bank capable of regulating the financial sector; provisions relating to adequate power; provisions relating to preservation of confidentiality and handling of possible offences; adequate mechanisms for good governance; measures to better manage and apply monetary policies, including the role of lender-of-last-resort and interest rate policies.

### **Steps taken to remove obstacles, including restrictions on participation by foreign institutions, to private investment in the development of the financial sector**

The Government has liberalized the economy, including the financial services sector, through its business reforms process. Foreign financial institutions wishing to establish in Zambia and capable

of meeting the minimum requirements are welcome. As a result, foreign-owned financial institutions have proliferated in Zambia in the past ten years. The Companies Act provides guidelines for the formation, administration, and winding up of registered corporate bodies. There are also provisions for bankruptcy and liquidation processes although these take longer in their implementation. Banks of foreign and local institutions are registered under the Companies Act as corporate institutions. However, the financial services sector is regulated by the Bank of Zambia; the Securities Exchange Control and the Pensions and Insurance Authorities. These bodies often have overlapping duties at times, which calls for better coordination between them to avoid duplication of efforts, inefficient use of resources and contradictions.

### **Laws and regulations to protect the rights of borrowers and creditors**

In Zambia, regulation to protect the rights of borrowers and creditors include The Money Lenders Act for example, which aims to rein in the potential for abuse by moneylenders. It requires licensing, clear disclosure of lending terms in the form of Annual Percentage Rates, disclosure of loan status upon request, and written agreements stating essential terms. These operating regulations also include rules for fair treatment and information disclosure to borrowers. They impose transparency on the documentation and procedures of lenders and credit rating agencies, in order to reduce information constraints that often plague low-end finance markets. For example, these rules often require clear documentation and explanation of interest and fees, such as their presentation in the form of a consolidated annual percentage rate (APR). Credit reporting may be subject to the debtor's consent and the debtor's right to review and challenge any report. The Arbitration Act applies to the settlement of any dispute arising as a result of the interpretation or application of the provisions of any Act. Thus, the Act sets up a regime for secured lending to some extent. The Bankruptcy Act sets out procedures for insolvent debtors and many of the procedures reflect modern practice and are spelled out in sufficient detail while the Preferential Claims in Bankruptcy Act provides a special scheme of priorities in bankruptcy for unsecured debts. The deposit insurance scheme has been in place and will enable the Bank of Zambia to assist solvent financial institutions that may encounter temporary liquidity stress. In addition, the Government has made important strides in designing a financial sector contingency plan that provides a framework for resolving financial crises and protecting depositors from losing their monies.

### **Registry system to support the use of property as collateral and to expand business access to external sources of credit**

There is a registry system in place in Zambia. The Ministry of Lands is a holder of one such registry and those with title lodged with it can use their properties to access credit. The Agricultural Credits Act, for example, facilitates the borrowing of money on security in farming stock or other agricultural assets, and provides for the registration of these security interests. Therefore, this Act enables the farmer to create a charge on farming assets as security for inputs or other items required for cultivation, for the sums of money advanced to the farmer, or for sums paid on behalf of the farmer.

Under the PSDRP Ease of Doing Business Reforms, one of the outputs being considered is the establishment of a Unified Collateral Registry. This is aimed at centralizing the source of information on registered collateral to make it easier for financial institutions and other relevant stakeholders to verify the status of a borrower's collateral commitment. Once this is done, it reduces the risk for lending institutions, thereby increasing access to finance as well as reducing the cost of borrowing.

### **Data protection and credit reporting laws to enhance the investment environment**

Zambia has introduced credit reference services, which was necessitated by the poor credit culture in the country as identified under the FSDP. The Credit Reference Bureau was introduced in 2006 following the introduction of the Credit Reference Services (Licensing) Guidelines and Credit Data (Privacy Code) 2006. A Directive was issued by the Bank of Zambia on 10 December 2008 mandating all credit providers to use the services of a credit reference agency before issuing any loans and to provide credit data to a credit reference agency. The Bank of Zambia is currently developing a comprehensive credit reference bill which will have jurisdiction over all credit providers and data sources. Currently most, if not all, banks are using CRB to check on borrowers' credit ratings.

### **Confidentiality**

The Banking and Financial Services Act provides for confidentiality of information. In this regard, a bank or financial institution and every director, chief executive officer, chief financial officer, manager and employee shall maintain the confidentiality of all information obtained in the course of service to the bank or institution and shall not divulge the same except in accordance with the express consent of the customer, or the order of a court; where the interest of the licensee itself requires disclosure; or where the Bank of Zambia, in carrying out its functions under this Act, so requests.

Confidential information about a person, in this regard, includes information that is not public, concerning the nature, amount or purpose of any payment made by or to the person; the recipient of a payment by the person; the assets, liabilities, financial resources or financial condition of the person; the business or family relations of the person; or any matter of a personal nature that the person discloses to the bank in confidence.

Notwithstanding the provisions of any law to the contrary, in any case where evidence of commission of an offence is to be found in the books, accounts or records or a bank or financial institution, such evidence shall not be sought or obtained from the bank or institution other than in accordance with the provisions of any other written law.

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## **7. COMPETITION POLICY**

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### **Status of the competition laws and their application**

The Competition and Consumer Protection Commission (CCPC) is a statutory body of Government set to monitor and implement laws relating to competition and fair trade in the country. The Commission makes its operations public through publishing annual reports and also avails the public with information through regular press releases. The Commission also holds workshops on a regular basis with Government institutions, private sector players, the judiciary, and other competition authorities among others. The weakness inherent in the 1994 Competition and Fair Trading Act, especially in the area of consumer protection and the administrative powers of the ZCC have been addressed in the new Competition and Consumer Protection Act No. 24 of 2010. The application of the laws and regulations governing competition and consumer protection are applied to all institutions, private, public and foreign alike. However, political interference and the categorisation of some activities as strategic in public institutions such as fertilizer support programmes have introduced distortions in the fertilizer market.

The legislation that was in place before August 2010 was known as the Competition and Fair Trading Act Cap 417 of 1994 of the laws of Zambia. However Parliament in August 2010 passed the

Competition and Consumer Protection Act which seeks to be more transparent and non-discriminatory by widely consulting stakeholders in relation to mergers and acquisitions, consumer protection and safety, and unfair trading for instance. Media outlets are also used to highlight the enforcement of competition and consumer provisions. However, the commission, due to inadequate resources, is only present in Lusaka and not the other parts of the country, which hampers its outreach.

### **Resources, political support and independence of the competition authorities to implement effectively competition laws**

The Zambia Competition Commission was established under the Competition and Fair Trading Act to prevent anti-competitive and restrictive business practices and promote consumer welfare. The law came into force in February 1995 and the Zambia Competition Commission established in 1997.

To carry out its mandate fully and thus effectively enforce the competition and consumer legislation, the Competition Commission requires more funding and sustainable training of staff. Members of the Commission's board are appointed from independent institutions. It is the Board that appoints a chief executive, who reports to the board and not the minister. The verdicts of the commission can not be reversed by the High Court nor by any other wing of Government. The Commission has enjoyed political support and it may not be said that it is independent per se because it is part of Government.

The inadequacies of the Commission are seen in its failure to rein in sector-regulated institutions such as the Telecommunications and the Security Exchange. As a result, the Commission has assumed more of a reactionary role instead of being pro-active. The Commission is only located in Lusaka and with the shortage of staff, the challenge is executing its sometimes broad mandate and technical jurisdiction.

With such a broad mandate and jurisdiction over all sectors of the economy, the Commission faces the challenge of concurrent jurisdiction. This is a situation where there are other sector regulators that work in specific sectors of the economy. For example, there exists in Zambia the Energy Regulation Board (ERB) that regulates the energy sector and the Zambia Information Communications Technology Authority of Zambia (ZICTA) which addresses concerns in the telecommunication sector. The Commission works with such regulators by referring specific issues relating to their jurisdiction to them. However, with the exception of the Energy Act and the Financial and Banking Services Act, no regulator is obliged by statute to consult the other when handling issues. This presents difficulties of overlap and jurisdictional battles, among others.

### **Competition authorities addressing anti-competitive practices by incumbent enterprises, including state-owned enterprises that inhibit investment**

The Commission has firmly dealt with incumbent enterprises, including state-owned enterprises whenever anti-competitive practices are uncovered. This has resulted in the Commission issuing cease and desist orders in some instances where the practice has been a conduct that prevents competition. The new Act, if implemented, attempts to address the anti-competitive practices; however, it is a challenge for state-owned enterprises to be weaned off completely without state interference. In instances where an institution is protected by legislation, the Commission has advocated to Government to have such legislation reviewed. A clear example of this is when the Commission engaged Government to have the international gateway and landline phone sector

liberalized. Whereas the gateway has been liberalised, the land line phone sector has not and the Commission is therefore still engaging Government on this.

The Commission has been effective in addressing anti-competitive practices by private companies but exhibits poor performance with state enterprises and those that have sector regulators with notable examples in the telecommunications industry during the privatization of Zamtel. A statutory regulation was issued by ZICTA barring further entry in the telecommunications sector until to 2015 and ZCC has been unable to stop this development. The Commission argues that activities which are for solidarity purposes or for national interest are exempt from the competition legislation.

### **Capacity of competition authorities to evaluate the impact of other policies on the ability of investors to enter the market**

The Competition Authority has the capacity to analyse and evaluate policies on the ability of investors to enter the market, but lacks adequate resources to mobilize external and more specialized expertise for broader evaluations. The Commission has established informal and formal channels of communications with other government agencies to strengthen its evaluation activities. With the coming of the new competition legislation, the Commission will enter into MoUs with all other sector regulators as well as some government agencies. Communication with central Government is handled by the Ministry of Commerce, Trade and Industry.

Although, under the Competition Act, the Commission has no power to nullify anti-competitive practices authorized by other regulators, it can make presentations to the Ministry of Commerce, Trade and Industry for use in consultations with other relevant line ministries. In addition, concerned stakeholders can take Government to court for redress.

### **Periodical evaluation of the costs and benefits of industrial policies and take into consideration their impact on the investment environment**

This Commission has previously and very successfully carried out studies in cement, poultry, beef, cotton, aviation, inland port, fertilizer, maize and maize cereal sectors. Notable evaluations were done in the telecommunications sector (international gateway) which helped Government to review both the policy and law relating to the sector which permitted monopolistic market behaviour. As a result of this review, and the competition environment that has successfully been nurtured in the mobile industry, international call tariffs have been reduced by more than 60%. For example, MTN Group slashed international call rates by about 40 percent in Zambia after a cut in the licensing fees for international gateway facilities from \$12.5 million to \$300,000 per year. However, the interconnectivity in the same sector still remains high and MTN Zambia has submitted a request to ZCC to investigate the underlying costs for local calls to bring down the high charges of communication. In addition, a review of essential facilities in the oil pipeline and refinery have influenced Government policy positively. The Commission is a member of the Sector Advisory Group (SAG) committee on industry and trade and therefore does make contributions on the policies being proposed. However, due to resource constraints, the Commission is not able to carry out periodic evaluations of the effects of these policies. Resource constraints have hampered the Commission's ability to deal with primary issues of violations of the law.

### **Competition authorities and privatizations**

The Commission's role in the privatisation process has been advisory in terms of market structure and reviewing the preferred bidders before the purchase is effected. The Commission works closely

with the ZDA during privatisation processes to ensure non-infringement of the competition legislation. Depending on the structure of the market the Commission does have the powers to impose sector wide conditions on exclusivity clauses. The Commission has recently been co-opted into a Government committee that negotiates Investment Promotion and Protection Agreements (IPPA). Through this committee, the commission is able to advise Governments to have IPPAs which are based on free market principles.

### **Competition authorities and relations with their counterparts in other countries to co-operate on international competition issues, such as cross-border mergers and acquisitions, bearing on the investment environment**

The Commission is a member of the Southern and East African Competition Forum and is also a member of the SADC competition and consumer committee and the COMESA competition regime. The Commission is an active member of regional competition groupings and has made consideration networks in East and Southern Africa. The Commission has helped formulate competition legislation in countries that had no legislation and have also actively participated in the SADC Livingstone Declaration calling for harmonization of competition legislation in SADC countries.

The Commission cooperates with other authorities on cross-border issues and has on some occasions requested other regional authorities for information. For the COMESA region, cross-border issues are dealt with under the COMESA competition rules, however under SADC cooperation is voluntary. SADC is currently devising a method of cooperation but the SADC Competition and Consumer Committee provides a forum for cooperation.

In terms of actual technical expertise, the Commission is well-endowed, especially in view of exposure to overseas competition and consumer protection authorities such as the Australian Competition and Consumer Protection Commission (ACCPC) and the Federal Trade Commission (FTC) of the United States of America that have helped develop internal capacity among staff. The Commission has continued exposing its staff through seminars and training workshops to help develop in-house expertise.

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## **8. CORPORATE GOVERNANCE**

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### **Steps taken to ensure the basis for a corporate governance framework that promotes overall economic performance and transparent and efficient markets**

The Companies Act constitutes the principal framework for corporate governance in the country, though its enforcement is perceived as weak. As a result, it is supplemented by relevant case laws. Other instruments fostering good corporate governance include the Securities and Exchange Act, and the Banking and Financial Services Act (amended in 2006) which regulates certain aspects of the financial sector. The Companies Act is premised on the philosophy that internal relations in a company should be democratic with discretion given to the companies themselves while the Banking and Financial Services Acts spells out guidelines. To this end, the Act only prescribes mandatory minimum standards for checks and balances between the key stakeholders, directors and the company itself.

As per international standard practice, directors are agents of the company and not the shareholders. Directors of public limited companies are subject to more fiduciary duties, such as refraining from engaging in insider trading. Subject to the companies' articles of association, directors enjoy powers to sue on behalf of the company, manage the affairs of the company, borrow on behalf of the

company and execute charges on company property. The Board also appoints the company managing director. The Act, however, places limitations on the powers of the directors. For instance, save with stakeholders' consent (by ordinary resolution), directors cannot sell, lease or otherwise dispose of property, issue new or unissued shares or create or grant any right or options entitling the holders thereof to acquire shares of any class in the company. A company acting through its directors is also obliged to maintain books of accounts. Similar directors are obliged to convene annual general meetings no later than three months after the financial year end at which the board reports to the shareholders. Reports to be tendered at the Annual General Meeting include Profit and Loss Accounts and Balance Sheets.

More importantly, directors are not only appointed, but can also be removed by shareholders. The Act further stipulates the minimum rights enjoyable by shareholders. These include rights to be notified, to be given adequate notice, to attend, speak and vote at meetings. The Act also prescribes minimum standards for the conduct of meetings. Shareholders can also requisition for an ordinary general meeting. Further, provided they meet the minimum threshold vis-a-vis voting rights, shareholders can also alter articles of association at a general meeting. Statutory violation of the above rights is enforceable in the courts of law. Outside the legal framework, companies are also encouraged to come up with board charters promoting high ethical practices. The Institute of Directors is another active element of the corporate governance framework in Zambia, among others providing targeted seminars.

### **Corporate governance framework ensures the equitable treatment of shareholders**

To protect minority shareholders, the Companies Act, CAP 388, guarantees their effective participation in decision-making, particularly those likely to adversely affect them. For instance, amendment of articles of association which may affect shareholder rights requires a special resolution. Similarly, alteration of a company's share capital is by special resolution. A special resolution must be passed by a majority of not less than three fourths of votes cast by such members of the company as being entitled so to do, vote in person or by proxy at a meeting duly convened as a meeting at which a special resolution is to be moved and the meeting is duly held. A notice of twenty one days is required for a meeting at which a special resolution is to be passed. This is backed by the Companies Act, Cap 388.

### **Procedures and institutional structures for legal redress in cases of violation of shareholder rights**

As the rights created by the Companies Act are legal rights, they are enforceable in the courts of law. An act contrary to the Act may be annulled by the courts for being ultra-vires. Once declared as such, actions under the act are deemed to have no legal effect. Similarly, any omission may be enforced through a court order. Also, violation of articles of association depending on the nature of the violation may be enforced as a breach of contract and damages or other appropriate equitable remedies ordered. Where the act has a criminal element, fraudulent trading for instance, the offender and the accomplices may equally be prosecuted. Such offenders are liable on conviction to a fine or custodial sentence or both.

The Lusaka Stock Exchange (LuSE) is well-regulated by the Securities and Exchange Commission (SEC) to ensure insider trading is not practiced. Punitive measures are enforced should this be identified in PLCs.

## **Procedures and institutions in place to ensure shareholders have the ability to significantly influence the company**

As observed earlier, the Companies Act prescribes several requirements to guarantee shareholder involvement in company affairs. Firstly, shareholders appoint and reserve the right to remove board members who are responsible for the management of the company. Secondly, there is a mandatory requirement for board members to convene annual general meetings and report to shareholders. Equally, where appropriate, shareholders can request an Annual General Meeting. They also have a statutory right to be notified of any general meeting, and to speak and vote at general meetings. To ease the attendance, there is a further requirement that meetings be held within Zambia. As regards the institutional framework for enforcement of these rights, it is mainly through the courts of law as explained above. AGM are held annually to allow all shareholders have a say in the direction of the company. The IoD Zambia is continuously training to ensure transparency and accountability in PLCs and potential PLCs.

## **Standards and procedures for companies to meet the market demand for timely, reliable and relevant disclosure, including information about the company's ownership and control structure**

As starting point, all information in the possession of the company's register is public information and therefore is accessible to the general public. In order to ensure accurate and up to date information, the Companies Act makes it mandatory for all companies to furnish the registry with an annual return containing vital information on the state of the company. This includes information relating to public shareholding. For public limited companies, annual returns should be accompanied by financial statements. Aside from annual returns, particular development in the company such as allotment of shares, change of director and change of company name have to be notified to the registrar.

## **Corporate governance framework ensuring the board plays a central role in the strategic guidance of the company, the effective monitoring of management, and that the board is accountable to the company and its shareholders**

To ensure the Board's effectiveness in the management of the company, the Companies Act vests a broad range of powers in the Board. Above all, the Board is vested with the legal mandate to manage the company's affairs. It is empowered to appoint the company's managing director, who is responsible for the day to day running of the company's affairs. It is empowered to exercise, on behalf of the company all the powers under the act and/or the articles of association. Subject to the articles of association, these may include borrowing and charging company assets and to confer powers of attorney. Further, while shareholders can remove directors, the removal procedure is stringent (there must be justification). Prior notice of intention to remove a director at a general meeting must be given under the directors' written response to any charges laid on him, and read to the general meeting. In order to ensure accountability, a Board is obligated to convene annual general meetings at which the report above are tendered. Further, as aforesaid, shareholders can remove non-performing board members.

The corporate governance framework ensures the Board plays a central role in the strategic guidance of the company by convening quarterly board meetings. The Board of Directors is usually non-executive and remains accountable to shareholders. Properly-run Boards ensure sustainable wealth and job creation by networking and interaction in the market place through established laws and regulations.

## **Voluntary initiatives and training to encourage and develop a good corporate governance culture in the private sector**

There are indications that companies are voluntarily developing board charters to govern their conduct. The local Institute of Directors (IoD) has been quite instrumental in this regard. However overall, the standards of corporate governance in the country need to be improved - in particular the legal framework requires strengthening in relation to fiduciary duties of directors. Similarly, there is a need for measures to encourage skills mix, training and performance appraisal of Board members.

Most PLCs do practice good corporate governance culture. LuSE has developed a second tier trading platform to encourage SMEs to list and therefore practice corporate governance and corporate social responsibility (CSR).

## **State-owned enterprises (SOEs) and a level playing field, competitive market conditions, and independent regulation**

State-owned Enterprises (SoEs) in Zambia could essentially be grouped into two: those incorporated under the Companies Act and those established by particular statutes. However, Zambia has privatised virtually almost all SoEs – only a handful in the energy and insurance sectors (less than five remain under state control). Therefore Government control is no longer an issue. For the few remaining under state control, Government has relinquished management to independent boards of directors. Further, these SoEs do not enjoy any preferential treatment by virtue of Government ownership. Zesco and Indeni Refinery Company, for instance, are subject to the energy regulatory board (ERB) which regulates the pricing of their services among others.

An attempt has been made to allow private sector to sit on SOE boards. However, these are diluted by the overwhelming numbers of civil servants still on these boards therefore stifling the level playing field, competitive market conditions and independent regulation.

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## **9. POLICIES FOR PROMOTING RESPONSIBLE BUSINESS CONDUCT**

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### **Human rights, labor standards and relations**

Zambia has ratified a number of international human rights conventions, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities. At the national level, the lead authority for upholding human rights norms is the Human Rights Commission (HRC). In 1996, the Human Rights Commission Act No. 39 was enacted and the HRC was established to address human rights violations through the investigation of human rights abuses and providing aid to victims. The Act, inter alia, provides for the autonomy of the Commission, its composition, functions and powers as well as a mechanism for addressing complaints.

Zambia joined the ILO in 1964 and has since ratified 43 ILO conventions relating to workers' protection. These include all core conventions, such as the Forced Labour Convention; the Freedom of Association and Protection of the Right to Organise Convention; the Right to Organise and Collective Bargaining Convention; the Abolition of Forced Labour Convention; and the Worst Forms of Child Labour Convention.

At the national level, labour issues are addressed by the Industrial and Labour Relations Act. The Act provides the legal framework for trade unions, employers' organizations, their federations, the Tripartite Consultative Labour Council and the Industrial Relations Court.

The Employment Act Chapter 268 is the basic employment law, while the Minimum Wages and Conditions of Employment Act makes provisions for the regulation of minimum wage levels and minimum conditions of employment. Currently, the minimum wage per month for employees in Zambia is K268,000 (approximately US\$53).

The Factories Act Chapter 442 aims at framing workers' health, safety and welfare in their working environment. For example, its section 69 states that all practicable measures should be taken to protect workers in every factory where dust, fumes or other impurities are expelled during the course of operations, which are likely to be injurious or offensive to the workers.

### **The environment**

Zambia's Environment and Natural Resources management sector laws are spread over 30 Acts and over more than 20 international treaties. The Ministry of Tourism, Environment and Natural Resources was established in 2002 to deal with this complex set of issues – and more recently, in 2009, President Banda launched the National Policy on Environment. The Environmental Protection and Pollution Control Act No.12 of 1990 (EPPCA) is the most important environment-related law that cuts across different sectors. The Environmental Council of Zambia (ECZ) was established by the EPPCA. The EPPCA regulates issues regarding environmental protection, pollution, water, air, waste, pesticides and toxic substance, noise, ionizing radiation, and natural resources conservation.

### **Consumer protection**

The Government of Zambia seeks to maintain high standards of consumer protection by, for example, following the United Nations Guidelines for Consumer Protection. The new Competition and Consumer Protection Act No. 24 of 2010 that replaced the Consumer and Fair Trading Act of 1994 is the main legislation in this regard. When the Act went into effect in 1995, the Zambia Competition Commission was established to prevent anti-competitive and restrictive business practices and promote consumer welfare. Another regulatory institution is the Zambia Bureau of Standards (ZABS), established by the Zambia Bureau of Standard Act No. 22 of 1982. ZABS aims to provide efficient and effective standardisation, quality assurance and metrology services to industry and consumers to improve the quality of products and services and promote sustainable socio-economic development in Zambia. Other regulatory boards are also intended to protect and promote the consumer's interest. For example, the Energy Regulation Board was established to regulate the energy sector in line with the provisions of the Energy Regulation (Amended) Act 2003 in order to safeguard the interests of all stakeholders.

### **Financial disclosure and non-Financial disclosure**

In 1993, the Lusaka Stock Exchange (LuSE) was established in Zambia with support from the International Finance Corporation and the World Bank. The LuSE's rules and listing requirements are rooted in the Securities Act No 38 of 1993. The Act aims to ensure adequate investor protection and to support the smooth operation of a securities market. All listed companies are obliged to publish interim and annual financial statements within 3 months after the financial year. Listed companies are also required to disclose in the national printed media information that can affect the value of the price of their securities.

Companies in Zambia are required to report their environmental performance to the ECZ by law. Authorization from the ECZ is necessary for most projects other than those to be carried out in the service sector. As required by the EPPCA, an Environmental Project Brief (EPB) or an Environmental Impact Statement (EIS) is to be submitted to the ECZ before a project is undertaken, to anticipate its impacts on the environment. The EPPCA also allows the ECZ to request information on projects proposed, planned or in progress by any person anywhere in Zambia. The ECZ may publicize all relevant information on any aspect of the environment.

### **Assisting companies' efforts to comply with the law through labour dispute settlement and ombudsman services**

The Ministry of Labour and Social Security is the main institution dealing with labour issues. The Ministry also advises the Zambian Government on how to promote a safe working environment, and is responsible for the maintenance of industrial peace by playing a third party role in conflict resolution, through the Labour Commissioner. However, the Commissioner has no legal power to intervene in collective negotiations unless he is asked to do so by the trade unions, the employers or both.

The Industrial Relations Court is the second stage of the third party dispute settlement system. The Court has the jurisdiction to hear and determine any industrial relations matters and any dispute between any employer and employee.

There is also a mechanism where employers' and workers' organizations can interact with the Government, such as the Tripartite Consultative Labour Council, stemming from the Industrial and Labour Relations Act. The Council consists of representatives of trade unions, employers, and Government representatives nominated by the Minister of Labour. It allows participants to discuss labour market issues and social and economic issues that impact on employment conditions. However, the role of the Council is purely advisory, and its decisions are not binding on the Government.

In Zambia, the duties of the ombudsman fall under the jurisdiction of the Commission for Investigations, established pursuant to Article 90 of the Constitution. The Commission is mandated to redress grievances of abuse of power such as arbitrary decisions, improper uses of discretionary powers, decisions made with bad motives, unnecessary or unexplained delays, and misapplication and misinterpretation of laws. Other mechanisms include the Police Public Complaints Authority and the Judicial Complaints Authority, both of which are mandated to investigate alleged misconduct by police or judicial officers.

### **Civil Society**

The number of NGOs active in Zambia has dramatically increased since the early 1990s. By 2004, there were 600 NGOs. To improve coordination and efficiency, they established several networks, such as the Civil Society for Poverty Reduction (CSPR) encompassing over 140 organizations in Zambia.

However, NGOs in Zambia have complained about several obstacles, one of which is the Non-Governmental Organisations Bill passed by Parliament and signed by the President in August 2009. Although the Bill states that it aims to enhance the transparency, accountability and performance of non-Governmental organisations, it does not allow NGOs to carry out their activities without proper

Government registration. This has been interpreted by some NGOs as a curb on their ability to undertake their work and do so effectively and legitimately.

Trade union movements have had their influence on the Zambian Government and companies since their inception in the 1920s. About two-thirds of the total workers in the formal sector are union members. Workers may engage in collective bargaining, while strikes and lockouts are also allowed by law. Trade unions can influence their employers through their own activities as well as through the Government. However, trade union movements are only lawful if all legal recourse is exhausted. In reality, a number of requirements make it difficult for trade unions to have a legal strike. In addition, foreign investors sometimes refuse to have their workers represented by a trade union. For example, taking advantage of loophole in laws, some of them divide workplaces so that the number of workers does not reach the minimum level needed to organize a union.

Trade unions can also communicate with the Government through workers' federations. The ZCTU is very influential and has a strong composition of full-time staff unlike individual trade unions. In 2006, when the new Government was formed, the ZCTU demanded a restructuring of the mining sectors by, for instance, improving the working conditions while at the same time emphasizing the importance for the investors of formulating a corporate social responsibility code of conduct to ensure that communities benefit from mining operations.

The Government of Zambia has to be recognized, especially compared to its regional peers, for having developed a series of policies, which contribute to a good framework for RBC. Nevertheless, the real challenge the country faces is a lack of targeted legislation and implementation strategies to ensure that both local and foreign investors provide decent working conditions, such as wages, health education and the right to unionise. The fact that the Company Act of 1994 is currently under revision is promising.

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## 10. HUMAN RESOURCE DEVELOPMENT

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### **Human resource development (HRD) policy framework and broader development and investment strategy and its implementation capacity**

Zambia's "Public Service Training and Development Policy" forms the pillar of the Government's Human Resource Development Policy framework (PSTDP). Further, the Government has established the "Procedures and Guidelines for HRD in the public sector consistent with its broader development and investment strategy."

The Government has put in place the "Systematic Training Cycle" to ensure that training and development is systematic, focused and supports strategies and operations of Ministries, Provinces and other Government institutions as well as meeting the challenging needs of the Public Service.

The Government has put in place additional mechanisms through the Ministry of Education (MOE), the Technical Education, Vocational and Entrepreneurship Training Authority (TEVETA), the Citizens Economic Empowerment Commission (CEEC), the Future Search Network, and the Institute of Diplomatic Studies to develop human resource capacity. For example, the MOE is closely collaborating with USAID in improving the quality of education to bring about positive reforms, which has translated into more than US\$ 70 million dollars in support over the last nine years to compliment and contribute to enhancing the quality of education in Zambia. Currently, USAID is funding four separate education initiatives in Zambia: Education Quality Improvement Program (EQUIP2); Quality Education Services through Technology (QUESTT); Community Health and

Nutrition, Gender and Education support (CHANGES2); and the Textbook and Learning Materials Project (TLMP).

The Zambian Government, together with TEVETA, has put together a Development Programme as a benchmark for inviting support from the international community to improve the skills of the human resources for the formal and informal sectors of the economy. However, TEVETA, as the lead vocational training institute, requires enormous investment to have its facilities upgraded. This lack of resources also affects its ability to develop and deliver top standard and industry relevant training and skills-upgrading.

### **Economic incentives to encourage individuals to invest in higher education and life-long learning, promotion of training programmes and their evaluation as per impact on the investment environment**

Creating a competitive atmosphere for innovative entrepreneurs comes hand-in-hand with the Government's ambition to create a strong enabling environment for private sector to develop. The Government acknowledges the need to address the imbalance between the demand and supply of technically skilled labor by identifying education and skills training as a priority sector

The education sector has witnessed a proliferation of private universities during the last decade. As stipulated in the ZDA Act, any company investing in training can benefit from incentives. One of the mechanisms used to encourage businesses to offer training to employees and to play a larger role in co-financing training is through the investment promotion and protection agreement (IPPA).

Government through the Apprenticeship Act No. 275 of the Laws of Zambia has introduced the concept of apprenticeship which regulates the employment of apprentices in various trades; provides for the registration, transfer, modification and rescission of contracts of apprenticeship; provides for the appointment of inspectors and specifies their powers; and provides for the making of regulations.

TEVETA which is a regulatory body, under the Ministry of Science Technology and Vocational Training, charges various fees to enhance the skills training sector. TEVETA's source of finance is Government grants, donor funds, registration of institutions and other income-generating activities.

### **Mechanisms to promote and enforce core labour standards**

The Government of Zambia, through an ILO initiative, supported by social partners, prepared a coherent and focused programme for Zambia to contribute to the promotion of Decent Work throughout the economy. In this regard, the "Decent Work Country Programme (DWCP)" was established to co-ordinate and align technical assistance, support and resources around an achievable set of priority outcomes. It is in line with the promotion of core labour standards. The core elements of the programme are job creation for women, young people, and people with disabilities; prevention and mitigation of HIV and AIDS in the world of work, and elimination of the worst forms of child labour.

These components of the DWCP are also seen as contributions towards achieving the objectives of Zambia's Millennium Development Goals (MDGs); Vision 2030; the Fifth National Development Plan, and in particular its chapter on Employment and Labour; the National Employment and Labour Market Policy (NELMP), an outcome from ILO's support to the Ministry of Labour and Social Security, and the common United Nations Development Assistance Framework (UNDAF). Zambia has

ratified eight (8) core labour standards stated under the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work (1998).

The Government is further reviewing labour laws to align them to current prevailing labour and economic conditions. In this regard, the Industrial Labour Relations Act, the Minimum Wage Act and the Employment Act are currently being amended.

### **Labour market regulations, job creation and the Government's investment attraction strategy**

The Government of Zambia, in recognition of the important role labour market regulations play, formulated the National Employment and Labour Market Policy (NELMP) in 2004. This provides a labour market management mechanism to respond effectively and efficiently to the demands of a liberalized market economy regarding protection of jobs or workers and promotion of job creation by firms in the so-called efficiency-equity trade-off. While a well-functioning labour market has a positive effect on the investment climate, the opposite is also true. A well-functioning investment climate is essential to generate higher demand for labour and for enabling wages to rise.

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## **11. INFRASTRUCTURE DEVELOPMENT**

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### **Context and evaluation of infrastructure investment needs**

The Government tries to take an integrated approach to exploiting the transport potential and evaluating the infrastructure needs. This is based on the FNDP and the levels of importance of the project. Infrastructure investment needs are usually considered if they are capable of stimulating growth by facilitating trade and investment across the entire country in various sectors of the economy. This process is also supporting the opening up and development of rural areas, thereby curbing the rural urban drift. To further strengthen the framework for infrastructure development, a PPP policy has since been launched in 2008 and enacted in 2009, and a unit has been established under the Ministry of Finance and the National Planning Council of Ministers.

The Government, in cooperation with local institutions and regional Governments, has set infrastructure investment priorities. Efforts in the energy sector include projects in the petroleum, biofuels, hydro electricity power generation, transmission and distribution, renewable energy, coal and uranium.

At the regional level, four SADC countries, namely Zimbabwe, Zambia, Botswana and Namibia have signed a memorandum of understanding to develop an electricity transmission interconnector, which will result in an increase in power trading among the participating utilities. The project, ZIZABONA, will provide an alternative power transmission route and help decongest the existing central transmission corridor that currently passes through Zimbabwe.

Much of the collaboration on regional infrastructure investment priorities lies in the promotion of development transit corridors in order to achieve an efficient transport system along the major transit corridors in Southern Africa. For example, in 2003, Zambia signed an Agreement with Malawi and Mozambique to establish the Nacala Development Corridor.

The Government has also endeavoured to introduce relevant legislation in order to harmonize road traffic and safety standards in conformity with regional and international protocols. The focus is principally on improving the efficiency of road transport. Particular attention is given to the harmonization of transit charges and harmonization of axle load control. Zambia is also part of

regional efforts to simplify border crossing and checkpoints for transportation. Advances are also being made to establish adjacent border posts to reduce the waiting time for truck drivers and transit formalities. The concept of a One Stop Border Post has been adopted and implemented at the Chirundu Border Post between Zambia and Zimbabwe and is to be extended to all other borders that Zambia shares with its neighbors.

The Government is cognizant that the private sector must become the engine of growth to drive the economy and create wealth job opportunities and hence assess the market for potential investors. As part of an effort to strengthen the enabling environment, the Government aims to regulate competition amongst the industry players effectively. For instance, the Zambia Information and Communication Technology Authority undertakes this activity in accordance with the ICT act No. 15 of 2009. Furthermore, the Competition and Consumer Protection Commission monitors the competition as described earlier.

Part of the Government's efforts to improve infrastructure include the development of MFEZs and Industrial Parks that provide superior industrial and business infrastructure as highlighted earlier.

### **Transparency and procedural fairness in bidding for infrastructure contracts**

Tenders are advertised both in local and international media depending on the project. The regulatory agencies are autonomous and are run by Boards, therefore limiting undue political interference. The ZPPA, ZCCP, ZDA and other related Government agencies have all been put in place to uphold the principles of transparency and procedural fairness through public tender and bidding processes of public infrastructure contracts.

### **Market access assessment in the telecommunications sector and the extent of competition among operators**

The Government evaluates the competitiveness of telecommunication pricing policies, favouring investment in industries that depend on reliable and affordable telecommunications. In order to stimulate growth and recognizing the evolution of information and Communication Technologies, Parliament recently enacted the information and Communication Technology (ICT) Act No. 15 of 2009. This provides that the Regulatory Authority shall publish in a daily Newspaper of general circulation in Zambia the guidelines on the definition of electronic communication market and of the determination of licensee that holds a dominant position in the market.

Furthermore, in order to promote the widespread availability and usage of electronic communication services throughout Zambia and to bridge the digital divide between urban, peri-urban and rural areas a Universal Access and Services Fund has been established by the ICT Act of 2009 to address provision of electronic communications services in un-served or under-served areas and communities.

In addition, the Government through MCTI is undertaking the streamlining and harmonization of business licensing to ensure ease of doing business as seen in early sections. The international gateway fees have now been reduced from 12.5 Million USD to 300,000 per year and the gateway liberalized. This has had a positive impact on doing business in Zambia as the providers have reduced tariffs.

However, while the Government seems to have provided a conducive and competitive environment where it expects free market forces to dictate the placement of infrastructure to meet the demand

with little or no intervention by Government, it has passed a statutory instrument restricting further investment within the telecommunications sector for the next five years. This is likely to restrict access to cheaper telecommunication services.

### **Strategies to ensure reliable access to electricity services by users, and economic incentives to invest and supply electricity**

The Government has a number of strategies in place to ensure reliable access to electricity services. A series of policy documents to guide the electricity sub sector have also been developed to provide specific guidance, such as *The Power Systems Development Master Plan*, *The Rural Electrification Master Plan*, and an *Electricity Strategy*.

In an effort to increase available generation capacity, the Government has been implementing the Power Rehabilitation Project in which it has been rehabilitating and upgrading its large Hydro power stations, namely the Kariba North Bank Hydro Power Project (from 600 MW to 720 MW) and the Kafue Gorge Hydro Power Project (from 900 MW to 990 MW). The Government has also commenced the construction of a number power projects, such as the Kafue Gorge Lower Project (750 MW) with SINOHYDRO Corporation Limited and China-Africa Development Fund (CADFUND) for the financing and construction of the project on a Build, Own, Operate and Transfer (BOOT) basis. In addition to these efforts being made to generate more electricity, the Rural Electrification Master Plan (REMP) is also being implemented and as at June 2010, a total of 67 rural electrification projects had been completed while 24 projects are ongoing.

The Government's policy is to encourage and attract not only private investors but also empower public companies. This is being done through the promotion of PPPs such as the Kafue Gorge Lower and Itezhi – Tezhi Power Projects, public investments such as the Kariba North Bank Extension (wholly owned by ZESCO), private investments such as the Kalungwishi and Kabompo Projects, and the Multi – Year Electricity Tariff Adjustment Framework aimed at attracting further investment into the sector by ensuring that tariffs allow for cost recovery.

The national power utility, ZESCO, has in recent years been effecting gradual tariff increases from under 3.5MW per kilowatt hour to 5.5 MW per kilowatt hour currently for pre-paid domestic consumers. This is now beginning to attract private investors in power generation as the tariffs are becoming cost-reflective. Zambia's current installed power generation capacity is 1900 MW though the actual is 1600 MW but this will be up-scaled to 3000 MW when the proposed Kafue Lower (700 MW), Itezi Tezi (120 MW), Kabompo (440 MW) and others come on board by 2016. The above programmes seem to be clearly time-bound. For mini-hydro generating projects, the ZDA provides some incentives whilst the REA also gives subsidies on merit.

### **Processes for informed decisions on the development of new transport facilities, as well as the maintenance of existing investment in transport infrastructure**

As described earlier, the Government works in collaboration with local and regional Governments to establish infrastructure investment priorities. However, there seems to be a lack of an adequate institutional framework or capacity as well as lack of clearly defined responsibilities in this consultative arrangement. The responsibilities of planning, preparation of design standards, construction and maintenance of infrastructure are fragmented among the various Government institutions charged.

## **Evaluation of the investment needs in water required to support its development goals and private sector involved in water management, supply and infrastructure financing**

Discrepancies in access to an improved water source between urban (90%) and rural areas (40%), as well as limited service quality in urban areas are a major challenge for Zambia. Although institutional reforms have been carried out since the early 1990s, the focus has been on urban areas. The Ministry of Energy and Water Development is responsible for enhancing the management and development of the water sector in Zambia. The principle law governing water supply and sanitation service provision in Zambia is the Water Supply and Sanitation Act No. 28 of 1997. This Act mainly deals with the regulation of the service provision and provides for powers of service providers on issues relating to general service provision. It also provides for the establishment of an autonomous regulator, NWASCO. Its establishment has substantially improved the availability of information, and the institution has developed a good reputation, in particular with regards to its customer orientation.

The legal and institutional framework regarding Rural Water Supply and Sanitation is embedded in the Act which delegates and mandates the local authorities to provide water and sanitation services in the respective areas. Consequently all seventy-two local authorities have gone ahead to establish commercial water utilities either as joint ventures or single entities to provide water and sanitation services.

Nevertheless, investment levels remain low, especially with regards to meeting the MDGs. Infrastructure funding to the sector has been a major concern. The Government has seen the need to put up a deliberate investment policy in the water and sanitation sector so as to increase funding and address deficits in infrastructure development in relation to the growing population. In this regard, the Devolution Trust Fund (DTF) was established by NWASCO as a basket financing instrument to assist the commercial water supply and sewerage utilities (CUs) to extend their services to the urban poor. In addition, Zambia obtained a loan from the African Development Fund to provide adequate and sustainable water supply and sanitation services in five Districts of Central Province namely Chibombo, Mumbwa, Kapiri Mposhi and Serenje.

The DTF's operations have benefitted more than 120,000 people during its pilot phase. The DTF has so far mobilized K92.2 billion for financing both water and sanitation projects including the pilots. Out of the amount mobilized, K75.4 billion had been received by 2009 of which K68 billion has been spent on financing 67 Water Projects benefiting 609,210 people. An additional 160,000 people are expected to benefit once all the projects are completed.

Investment needs in water require an in-depth understanding of water requirement for individual sub sectors which include mining, agriculture, industry and tourism. As for water for agriculture, a total of 55 projects have been selected and categorized in short, medium and long term projects at an estimated cost of US\$ 3, 649.04 million. However, no comprehensive study has been done to date to evaluate the water needs of the sub sector.

There are currently two types of Water Supply and Sewerage service providers in Zambia, which are Commercial Utilities (formed by joint ventures among Local Authorities) and Private Schemes (companies supplying water and sewerage services as a fringe benefit to employees). There are eleven (11) Commercial Utilities (CUs) and 7 Private Schemes currently licensed by NWASCO. Urban water supply and sanitation service provision has been fully transferred from Local Authorities to CUs with the aim of increasing efficiency and sustainability in operations. Out of the total urban population of approximately 5.4million, about 5.3 million (99%) live in the service areas of the

eleven CUs. Each province has one Commercial Utility except for the Copperbelt Province where there are 3 of such providers.

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## **12. CAPITALIZING ON REFORMS OF THE POLICY FRAMEWORK FOR INVESTMENT**

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From the political reforms undertaken by the early 1990s to the ambitious privatization process and the Vision 2030 to make Zambia a middle-income country, the Government has taken several steps to develop the country's private sector. The assessment of Zambia's investment framework has confirmed that the wide set of reforms that have been launched, in particular under the umbrella of PSDRP I, has resulted into improved global perceptions of Zambia as an investment destination. Despite this considerable progress, a number of challenges remain to better materialize the country's investment potential.

In terms of investment policy, promotion and facilitation, additional efforts need to be made to boost the SME sector and target investments that can have a strong potential for innovation and economic diversification. Strategies aimed at strengthening ZDA, as the key player for improving Zambia's business climate, need to be implemented. This would have to be coupled with the streamlining of some of its numerous activities, in order to strengthen its actual investment promotion, such as investor targeting, investor-supplier match-making and other specialized services – which could open new sources of financing. Better policy advocacy could also enhance the Government's consideration for private investors' perceptions of policy measures and reform implementation.

Trade policy is a crucial component of Zambia's investment environment, especially given its regional setting as a landlocked country. While significant efforts have been undertaken to facilitate cross-border trading, reflected in the high volumes of trade with the rest of the SADC region, a number of outstanding objectives need to be realized. These include the single window system for the entailing single entry payment for traders. Also, additional measures to strengthen the competitiveness of the Zambian private sector and its ability to benefit from regional market opportunities need to be implemented. In terms of policy formulation, the stakeholder consultation adopted by the MCTI is laudable, while the structural set-up needs to be fine-tuned, in particular with regards to the regularity and effectiveness of the national working groups.

Regarding issues related to sector prioritization, a formal process needs to be set up to review the costs associated with the distortions that have been created through encouraging investment in the priority sectors. This should also encompass a revision of the current differential tax rates towards a more unified structure and incentives scheme. A cost-benefit analysis with an in-depth study of the revenue losses arising from tax incentives offered to investors needs to be undertaken.

Better institutional coordination is an overarching challenge for policy implementation. In terms of taxation, improved coordination mechanisms between the Ministry of Finance, ZDA and ZRA would help lessen the burden linked to administrating taxes and incentives. In the financial sector, overlapping duties among the four financial service regulators have caused complications.

Maintaining an environment that spurs competition and protects consumers is a Government priority. At the same time, the Competition Commission needs to engage in a more active role in overseeing how investors comply with sector regulations, as well as identifying violations of the law. The Commission also needs to be involved in early stages of mergers and acquisitions, to ensure that established guidelines are followed. This, however, will only be feasible if human and financial resources allow it to fulfill its mandate. A more structural challenge is that most regulators are free

to handle sectoral issues without having to consult with the Commission, unveiling unclear jurisdictions.

Zambia has generally developed good human resources. However, vocational training remains weak and this has received a great deal of attention, including from cooperating partners. In particular, there needs to be a closer link to industry demands. This can be achieved through more positive incentives for companies to encourage technology and knowledge transfer. In addition to the business linkages programmes that exist, a linkages policy that focuses specifically on Zambia's entrepreneurial competitiveness through linkages with larger investors could be considered.

Infrastructure development is highly sector specific and the establishment of the PPP unit in 2009 sends the right message in terms of improving the sectoral coordination. However, the assessment has highlighted weaknesses in the capacity for making informed decisions on the development of new transport facilities as well as the maintenance of existing infrastructure. There are established standards and practices in the area of PPP implementation and the set-up of PPP units, which Zambia could take advantage of. This also applies to increasing private sector participation in the water and sanitation sector, an area where Zambia faces some difficulties.

With its set of reforms launched and the marked improvements in the investment climate, Zambia is well placed to diversify investment and deepening private sector activity. A number of policy options still remain at the Government's disposal to break through existing bottlenecks. In particular, developing a more integrated investment strategy, encompassing the different policies, programmes and initiatives into unified guidelines to strengthen the policy framework for investment should be considered.

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## ANNEX 1 – ZDA PRIORITY SECTORS

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- (a) Floriculture fresh flowers and dried flowers
- (b) Horticulture fresh and dried vegetables
- (c) Processed foods wheat flour other processed foods
- (d) Beverages and stimulants
  - (i) Tea and tea products
  - (ii) Coffee and coffee products
- (e) Production and the processing of the following products in the textile sector
  - (i) Cotton
  - (ii) Cotton yarn
  - (iii) Fabric
  - (iv) Garments
- (f) Manufacturing of the following engineering products
  - (i) Copper products
  - (ii) Iron ore and steel
  - (iii) Cobalt
  - (iv) Other engineering products
- (g) Beneficiation of phosphates and any other related material into fertilizer
- (h) Beneficiation of rock materials into cement
- (i) Production and processing of raw timber into wood products
- (j) Production and processing of the following products in the leather sector:
  - (i) Cattle hides
  - (ii) Crust leather
  - (iii) Leather products
- (k) Building of mini-hydro power stations
- (i) Education and skills training

### **MFEZ Priority Sectors are:**

- (a) Information and Communication Technology (ICT)
  - (i) Development of computer software
  - (ii) Assembly/manufacture of ICT equipment
- (b) Health
  - (i) Manufacture of pharmaceutical products;
  - (ii) Repair and maintenance of medical equipment;
  - (iii) Provision of laundry services to medical institutions;
  - (iv) Ambulance services;
  - (v) Medical laboratory services;
  - (vi) Diagnostic services; and
  - (vii) Other medical services.
- (c) Education and skills training
- (d) Manufacture of:
  - (i) Machinery & machinery components
  - (ii) Iron & steel products

- (iii) Electrical and electronic products & components & parts thereof;
- (iv) Chemicals & petrochemicals
- (v) Pharmaceutical & related products
- (vi) Wood & wood products
- (vii) Palm oil & their derivatives
- (viii) Pulp, paper & paper board
- (ix) Textile & textile products
- (x) Transport equipment, component & accessories
- (xi) Clay-based, sand-based & other non-metallic mineral products;
- (xii) Plastic products
- (xiii) Professional medical, scientific, & measuring devices/parts
- (xiv) Rubber products
- (xv) Leather & leather products
- (xvi) Packaging & printing materials
- (xvii) Fertilizer
- (xviii) Cement

(e) Tourism

(f) Processing of:

- (i) agricultural products
- (ii) forest products
- (iii) non-ferrous metals & their products
- (iv) gemstones

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**ANNEX 2 – GENERAL TAXES APPLICABLE IN ZAMBIA**

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<b>TAXES</b>	<b>GENERAL</b>	<b>MINING</b>	<b>AGRIC &amp; NTEs</b>	<b>ZDA INCENTIVES</b>
<b>Corporate Tax</b>	<b>35%</b>	<b>30%</b>	<b>15%</b>	<b>0% - for 5years 50% of Tax – year 6-8 75% of tax – year 9-10 Full tax afterwards</b>
<b>Withholding Tax</b>	<b>15 % (Except for mining – 0 %)</b>			
<b>Value Added Tax</b>	<b>16%</b>			<b>Option to deferment on capital equipment and machinery</b>
<b><u>Import Duties :</u></b>				<b>0% on capital goods, machinery and equipment for 5 years</b>
<b>Capital goods and Raw material</b>	<b>0-5%</b>			
<b>Intermediate Goods</b>	<b>15%</b>			
<b>Finished goods</b>	<b>25%</b>			
<b>Dividends</b>	<b>Income tax rates applicable</b>			<b>0% for 5 years</b>

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## ANNEX 3 – CURRENT POWER PROJECTS AND GUIDING POLICY DOCUMENTS

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### Projects:

- Kariba North Bank Power Extension Project (KNBE): The Kariba North Bank Extension Power Project was commenced in 2009 and is being implemented according to schedule. The Project is expected to be completed by the end of 2012. Once completed, the project will add 360 MW to the national grid.
- Kafue Gorge Lower Project (750 MW): On August 10, 2010 the Government of Zambia signed a Memorandum of Understanding (MOU) with SINOHYDRO Corporation Limited and China-Africa Development Fund (CADFUND) for the financing and construction of the project on a Build, Own, Operate and Transfer (BOOT) basis.
- SINOHYDRO are currently undertaking a geological study which will be completed in November 2010. Construction of the power station will commence mid 2011. The project will be commissioned in 2016.
- Kabompo Gorge Hydroelectric Project ( 40 MW): The project was offered to Copperbelt Energy Corporation (CEC) in 2008 to carry out a feasibility study on the power station and the associated transmission line for power evacuation to the grid. The feasibility study was completed in July 2010. The construction period of the project is between 4 – 5 years commencing in 2011 and scheduled for commissioning in 2015.
- Kalungwishi Hydroelectric Project (218 MW): The project entails construction of two power stations on the Kalungwishi River at Kabwelume and Kandubwika Falls with capacities of 83 MW and 135 MW respectively. The project was offered to Lunzua Power Authority (LPA) in January 2007. LPA will commence construction works once the Implementation Agreement (IA) is signed by the end on 2010. The construction period of the project is between 5 -6 years commencing in 2011 and scheduled for commissioning in 2016.
- Itezhi – Tezhi Project (120 MW): The project is jointly being implemented by ZESCO and TATA Group of Companies. The construction of the project which is expected to add 120MW to the Zambian Power System is expected to start early 2011 and will take about 4 years to be completed.

### Policy Documents:

1. *The Power Systems Development Master Plan:* This plan aims to coordinate generation, transmission and interconnection for the purpose of achieving stabilization in the power sector;

2. *The Rural Electrification Master Plan*: This aims to increase electricity access in rural areas from 3.1% to 51% and in urban areas from 48% to 90% by the year 2030 in order to foster economic development. The plan also targets the nation wide electrification from the current 22% to 66%. The Master Plan is costing about \$50m per year and is mainly targeting rural areas not on the national grid to encompass schools, health facilities and communities who are active in agriculture; and
3. *Electricity Strategy*: This strategy identified and prioritized power projects for the development in short, medium and long term measures. So far, there is a lot of progress in the prioritized projects.