

Zambia

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Zambia	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Failed States Index (Political Issues)(Average Score)
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score)
<p>Major Investment Areas:</p> <p>Agriculture - products:</p> <p>corn, sorghum, rice, peanuts, sunflower seed, vegetables, flowers, tobacco, cotton, sugarcane, cassava (tapioca), coffee; cattle, goats, pigs, poultry, milk, eggs, hides</p> <p>Industries:</p> <p>copper mining and processing, construction, foodstuffs, beverages, chemicals, textiles, fertilizer, horticulture</p> <p>Exports - commodities:</p> <p>copper/cobalt, cobalt, electricity; tobacco, flowers, cotton</p> <p>Exports - partners:</p> <p>China 42.2%, South Africa 7.2%, Democratic Republic of the Congo 7.2%, South Korea 5.3%, India 4.5%, Egypt 4.5%, UAE 4.4% (2012)</p> <p>Imports - commodities:</p> <p>machinery, transportation equipment, petroleum products, electricity, fertilizer, foodstuffs, clothing</p> <p>Imports - partners:</p> <p>South Africa 36.2%, Democratic Republic of the Congo 21.3%, China 10.1%, Kuwait 5.7% (2012)</p>	

Investment Restrictions:

The ZDA Act does not discriminate against foreign investors, and all sectors are open to both local and foreign investors.

Foreign and domestic private entities have a right to establish and own business enterprises and engage in all forms of remunerative activities, and no business ventures are reserved solely for the government. Although private entities may freely establish and dispose of interests in business enterprises, investment board approval is required to transfer an investment license for a given enterprise to a new owner.

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Section 1 - Background

The territory of Northern Rhodesia was administered by the [British] South Africa Company from 1891 until it was taken over by the UK in 1923. During the 1920s and 1930s, advances in mining spurred development and immigration. The name was changed to Zambia upon independence in 1964. In the 1980s and 1990s, declining copper prices, economic mismanagement and a prolonged drought hurt the economy. Elections in 1991 brought an end to one-party rule, but the subsequent vote in 1996 saw blatant harassment of opposition parties. The election in 2001 was marked by administrative problems with three parties filing a legal petition challenging the election of ruling party candidate Levy MWANAWASA. MWANAWASA was reelected in 2006 in an election that was deemed free and fair. Upon his abrupt death in August 2008, he was succeeded by his vice president, Rupiah BANDA, who subsequently won a special presidential byelection in October 2008. Michael SATA was elected president in September 2011.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Zambia is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Zambia was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Zambia was deemed Compliant for 0 and Largely Compliant for 4 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2008):

Zambia is one of the countries in Southern Africa that has been affected by the devastating effects of money laundering.

Illicitly gotten proceeds are laundered in various ways in Zambia. Money launderers have used smurfing/structuring, currency exchanges, money instruments, gambling, undervaluing assets, front businesses, and non-financial institutions to launder their proceeds. Other means include securities, debit/credit cards, physical transportation of cash, wire transfer, false currency reporting and off-shore corporations. Further, some criminals use their proceeds to purchase luxury goods such as vehicles and real estate.

The Anti Terrorism Act No. 21 of 2007 has been passed. The Prohibition and Prevention of Money Laundering Act no. 14 of 2001 is currently under review to allow it to incorporate the new conventions and developments in the fight against ML and FT.

The most commonly used institutions to launder money include; banks, real estate agents, insurance companies, casinos and law firms.

Despite the various measures being implemented to combat money laundering incidences of the offence are on the increase.

With regard to terrorist financing, there are no acknowledged cases. However, Zambia has cooperated with the international community on issues of terrorism

US Department of State Money Laundering assessment (INCSR)

Zambia was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Zambia is not a major financial center. The proceeds of narcotics transactions, bribery, and public corruption are the main sources of laundered funds. Wildlife trafficking, human trafficking, and the timber trade also are problems. Banks, real estate agents, insurance

companies, casinos, and law firms are the institutions most commonly used to launder money. Criminals in Zambia have used structuring, currency exchanges, monetary instruments, gaming, under-valuing assets, procurement fraud, and front companies to launder illicit proceeds. Other devices include securities, debit and credit cards, bulk cash smuggling, wire transfers, false currency declarations, and trade-based money laundering (TBML) via the purchase of luxury goods, such as vehicles and real estate, and abusive trade mis-invoicing of general trade goods.

Zambia is not considered an offshore financial center. The Government of the Republic of Zambia is developing a number of multi-facility economic zones that are similar to free trade zones.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: NO Domestic: NO

KYC covered entities: Commercial and development banks, building societies and microfinance entities, savings and credit institutions, money exchanges and remitters, securities firms, and casinos

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 487 in 2014

Number of CTRs received and time frame: Not applicable

STR covered entities: Commercial and development banks, building societies and microfinance entities, savings and credit institutions, money exchanges and remitters, securities firms, insurance companies, venture capital and pension funds, leasing companies, and casinos

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 28 in 2014

Convictions: 29 in 2014

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

Zambia is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Prevention and Prohibition of Money Laundering Act only indirectly requires the identification of customers as part of its requirement to document transactions. The Bank of Zambia's Anti-Money Laundering Directives of 2004 provide a direct customer identification obligation, which is applied flexibly to avoid financial exclusion in rural areas. Zambian banks have voluntarily adopted KYC rules. Zambia does not have a mechanism to safeguard the transfer of cash via money exchangers and remitters. Guidelines are voluntarily adopted by the remitting agencies.

The Financial Intelligence Centre (FIC), Zambia's financial intelligence unit, continues to look for capacity building, material resources, and financial support from international donors. At present, most financial crimes, including money laundering, are prosecuted through the Drug Enforcement Commission (DEC), which has a dedicated Anti-Money Laundering Investigations Unit covering a wide range of AML cases. Like much of the Zambian government, those authorities tasked with investigating and prosecuting financial crimes are hampered by a lack of resources, training, and capacity. The latest DEC Annual Report, covering 2013-2014, cites the following statistics for AML arrests: 76 in 2013 and 79 in 2014.

According to a 2015 study by Global Financial Integrity, during the time period 2008 – 2012, approximately 24 percent of Zambia's total trade involved illicit financial outflows generated in large part by abusive trade mis-invoicing, a form of TBML. The Government of the Republic of Zambia should seek international assistance to put in place trade transparency analytics within Zambian customs to detect anomalies in trade data that could indicate customs fraud and/or illicit financial flows in the form of trade.

The Government of the Republic of Zambia should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and promulgate regulations to implement UNSCRs 1267 and 1373.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Zambia does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

International Terrorism Financing Convention - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

Know Your Customer Provisions - By law or regulation, the government requires banks and/or other covered entities to adopt and implement Know Your Customer/ Customer Due Diligence programs for their customers or clientele.

EU White list of Equivalent Jurisdictions

Zambia is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Zambia is not considered to be an Offshore Financial Centre

Report

US State Dept Trafficking in Persons Report 2016 (introduction):

Zambia is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Zambia is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Most trafficking occurs within the country's borders and involves women and children from rural areas exploited in cities in domestic servitude or forced labor in agriculture, textile production, mining, construction, small businesses such as bakeries, and forced begging. Zambian children may be forced by jerabo gangs engaged in illegal mining to load stolen copper ore onto trucks in Copperbelt Province. While orphans and street children are most vulnerable, children of affluent village families are also at risk of trafficking because sending children to the city for work is perceived to confer status. Zambian boys and girls are exploited in sex trafficking by truck drivers in towns along the Zimbabwean and Tanzanian borders and by miners in Solwezi. Zambian boys are subjected to sex trafficking in Zimbabwe and women and girls are subjected to sex trafficking in South Africa. Domestically, extended families and trusted family acquaintances facilitate trafficking.

Women and children from neighboring countries are exploited in forced labor or sex trafficking in Zambia. Nationals from South and East Asia are exploited in forced labor in textile factories, bakeries, and Chinese-owned mines. Chinese traffickers bring in Chinese women and girls for sexual exploitation in brothels and massage parlors in Lusaka; traffickers use front companies posing as travel agencies to lure Chinese victims and coordinate with Zambian facilitators and middlemen. Southeast Asians who transit Zambia are subjected to forced labor in construction in South Africa by South African criminal groups. Potential trafficking victims from Ethiopia, Democratic Republic of the Congo, and Syria were identified in Zambia.

The Government of Zambia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government investigated 13 cases, nine of which were prosecuted, and five of these cases resulted in convictions. The government identified 192 potential trafficking victims during the reporting period, but it was unclear how many of these victims received protective services. The government did not improve the condition of its shelters and lacked means to shelter male victims of trafficking. The government's minimal budget for anti-trafficking efforts severely limited its capacity to provide services to victims. The anti-trafficking inter-ministerial committee did not meet during the reporting period. In addition, limited training provided for investigators, police, prosecutors, magistrates, and judges on human trafficking continued to hamper the

government’s anti-trafficking law enforcement efforts. Although the government investigated cases involving victims from neighboring countries, it did not investigate more organized trafficking operations involving foreign companies or address internal trafficking, including forced child labor and domestic servitude.

Latest US State Dept Terrorism Report

In 2007, the Zambian Government passed a counterterrorism bill, which criminalized acts of terrorism, including terrorist training, incitement, and financing, and granted the government significant authority to investigate, prevent, and prosecute acts of terrorism. Inadequate resources and training impeded Zambia’s law enforcement agencies’ counterterrorism capabilities, however. Zambia’s long and porous borders continued to pose a challenge in terms of the monitoring and control of illegal immigrants attempting to enter the country. Its points of entry remained vulnerable to human trafficking and international crime. Instability in Zimbabwe, Somalia, and Congo resulted in an increase in migrants during 2009. With U.S. assistance, Zambia has sent a number of law enforcement officers to the International Law Enforcement Academy in Botswana to learn and understand better methods to challenge illegal border crossing.

The Zambian government does not have an internationally- compliant anti-money laundering or counter-terrorist financing regime, but the Zambian government has announced its intentions to create a Financial Intelligence Unit (FIU) within the Bank of Zambia that meets international standards.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	37
World Governance Indicator – Control of Corruption	42

The development of Zambia's business environment is hindered by corruption and a weak institutional framework. Companies encounter red tape and rampant bribery in all business operations, including company registration, obtaining a construction permit, setting up utilities, and paying taxes. As a result of the inefficient and corrupt judicial system, foreign investors' property rights are not accurately protected nor enforced. In addition, international trade is impeded by pervasive corruption and crime in Zambia's customs. Companies regularly pay kickbacks and bribes in the tendering process for government contracts. Zambia's Anti-Corruption Act prohibits corruption, extortion, bribery of a foreign public official, abuse of office and money laundering. Zambia's legislation does not address facilitation payments and the maximum allowable value of gifts or hospitality is not clearly regulated. Enforcement of Zambia's anti-corruption legislation is lacking. **Information provided by GAN Integrity.**

US State Department

Zambia's anti-corruption activities are governed by the Anti-Corruption Act of 2010 and the National Anti-Corruption Policy of 2009, which stipulate penalties for different offenses. While legislation and stated policies on anti-corruption are adequate, implementation sometimes falls short. Zambia lacks adequate laws on whistleblower protection, asset disclosure, evidence, and freedom of information.

Zambia signed and ratified the United Nations Convention Against Corruption in December 2007. Zambia is also a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Other regional anti-corruption initiatives are the Southern Africa Development Community (SADC) Protocol Against Corruption, ratified on July 8, 2003, and the African Union (AU) Convention on Preventing and Combating Corruption, ratified on March 30, 2007.

U.S. firms and the Zambian government have identified corruption as a significant obstacle to foreign direct investment. Corruption is most pervasive in government procurement and dispute settlement. Giving or accepting a bribe by a private, public or foreign official is a criminal act, and a person convicted of doing so is liable to a fine or a prison term not exceeding five years. A bribe by a local company or individual to a foreign official is a criminal act and punishable under the laws of Zambia. A local company cannot deduct a bribe to a foreign official from taxes.

The Anti-Corruption Commission (ACC) is the agency mandated to spearhead the fight against corruption in Zambia. The Anti-Money Laundering Unit of the Drug Enforcement Commission (DEC) also assists with investigation of allegations of misconduct. An independent Financial Intelligence Unit (FIU) was formed in 2010, but has not yet developed the capacity to take the lead in investigating financial crimes. In November 2012, the FIU Board of Directors was appointed and sworn in with a challenge to implement its mandate. Zambia's anti-corruption agencies generally do not discriminate between local and foreign investors.

Transparency International has an active Zambian chapter. The GRZ encourages the establishment of internal codes of conduct that, among other things, prohibit bribery of public officials. The Integrity Committees (ICs) Initiative is one of the strategies of the National Anti-Corruption Policy (NACP), which is aimed at institutionalizing the prevention of corruption. The NACP was approved by the previous government in March 2009, and is being implemented by the Anti-Corruption Commission. Eight institutions were targeted, including the Zambia Revenue Authority, Immigration Department and Ministry of Lands. Most companies have effective internal controls, ethics and compliance programs to detect and prevent bribery. The PF government has not yet signaled whether it will follow the NACP or develop a new policy to fight corruption; although President Sata has said that anti-corruption will be a central pillar of his presidency.

Corruption and Government Transparency - Report by Global Security

Political Climate

Zambia's economy has witnessed strong economic growth in recent years, with real GDP figures averaging around 6% in the years preceding the global financial crisis. Nevertheless, despite this performance, poverty, red tape, and corruption remain among the most pressing issues in the country. In September 2011, Michael Sata won the presidential election and immediately vowed to tackle rampant corruption in the country, according to a 2011 article by BBC News. Since assuming office, the President has been praised for his efforts to fight corruption. According to an October 2012 article by Actualité Information Afrique, President Sata has taken strong measures against corrupt officials and a number of ministers from the former government, including ex-President Banda's son, are currently in court on charges related to corruption and abuse of office. In September 2012, President Sata received the UN-organised South-South Global Governance leadership award in New York for his fight against corruption and ensuring government accountability.

Over the past decade, corruption has been part of the political agenda in Zambia with various success and intensity, and according to the Bertelsmann Foundation 2012, the anti-corruption surge of former presidents in Zambia has been viewed by the public as being politically motivated and targeted against political opponents and critics. Former President Banda (2008-2011), also engaged in the fight against corruption, but Freedom House 2010 notes that Banda's commitment has been questioned after the Transport and Communications Minister, who was earlier found guilty of corrupt conduct, was re-appointed as Education Minister in 2009. The Joint Evaluation of Support to Anti-Corruption Efforts – Zambia Country Report June 2011 describes the anti-corruption efforts under Banda's administration as ambivalent, after the acquittal of former President Chiluba, the dismantling of the Task Force on Corruption (TFC), and a major health scandal in 2009 (see 'Licences, Infrastructure and Public Utilities' for more information). However, at the same time extensive audits were ordered by Banda following the health corruption scandal and some progress was made, such as the promulgation of the Public Interest Disclosure (Whistleblowers Protection) Bill in 2010 exemplifies. According to several articles, the ruling Patriotic Front has focused particularly on corrupt officials from the former ruling party in Zambia, the Movement for Multi-Party Democracy (MMD), since assuming office. According to an October 2012 article by the Post Online, corruption was indeed prevalent within the MMD; however, the current government's focus is also a scapegoating tactic for the PF to protect some of its own officials. The article notes that some members of the PF government benefited from the MMD abuses before crossing over to the newly formed PF party as PF members are allegedly enriching themselves through unlimited access to government contracts.

As indicated by sources, such as the Bertelsmann Foundation 2012 and the US Department of State 2012, corruption has remained pervasive in Zambia. Despite previous governments' declared war against corruption, there has not been a dramatic improvement in the public perception of anti-corruption efforts in Zambia over the last several years. In Transparency International's Global Corruption Barometer 2013, 39% of the household respondents consider the previous government's fight against corruption as ineffective, and 47% of the households perceive that the level of corruption in Zambia increased over the past three years. According to the Bertelsmann Foundation 2012, such negative perceptions can partly be explained by the fact that corrupt civil servants and government officials are rarely prosecuted adequately in Zambia.

Business and Corruption

The Zambian government has undertaken significant economic reforms to improve its investment climate and attract foreign investors, including steps to support transparent policymaking and to encourage competition. The impact of these progressive policies, however, has been undermined by persistent fiscal deficits and widespread corruption. Business surveys generally indicate that corruption in Zambia is a major obstacle for conducting business in the country. An example of this perception is illustrated in the World Economic Forum Global Competitiveness Report 2012-2013, in which companies rank corruption as the second most problematic factor for doing business in Zambia, after access to financing. According to the US Department of State 2012, it is often challenging regulations and low salaries of government employees that create incentives for corruption.

The country's formal economy is shadowed by a large informal economy, according to the Bertelsmann Foundation 2012. Another factor increasing corruption, particularly with the procurement sector, is the willingness of foreign companies to engage in bribery and other corrupt practices. According to the 2012 OECD report, foreign companies from non-OECD countries increasingly investing in Zambia, are not constrained by domestic anti-corruption legislation and codes of conduct, and therefore contribute to perpetuating corruption.

The Global Competitiveness Report 2012-2013 reveals that public funds are commonly diverted to companies, individuals, or groups due to corruption. According to the US Department of State 2013, corruption is particularly serious in the procurement sector and in dispute resolution. Given these reasons, companies are recommended to use a specialised public procurement due diligence tool in order to help mitigate the costs and risks of corruption involving public procurement processes in Zambia. According to the US Department of State 2011, land administration is considered by companies as another area which is susceptible to corruption. Some companies have questioned the government's procedures in awarding game management land areas. This is further supported by a 2012 OECD report, which notes that the awarding of road contracts and construction projects, in particular, have been plagued by corruption and that several high-profile officials have received kickbacks in return for construction and land contracts in recent years. Companies are generally recommended to develop and implement integrity systems, and to carry out extensive due diligence before committing funds or when already doing business in Zambia.

Regulatory Environment

The Millennium Challenge Account Threshold Programme (May 2006 to February 2009), is the Zambian government's most noteworthy effort to improve its domestic business climate. The programme targeted administrative corruption by streamlining business procedures in several institutions, including the Zambia Revenue Authority and the Ministry of Lands. Moreover, it sought to improve the business environment and enhance cross-border trade by increasing procedural efficiency at Zambia's customs and border control and by assisting the Zambia Development Agency (ZDA) to rationalise the regulatory environment and simplify business registration, licensing, and inspection procedures. The effect was that the programme reduced the time it takes to register a company, as well as in the import and export of goods. It also reduced a number of steps in purchasing and selling property (click here for the executive summary of the programme). Furthermore, the US Department of State 2013 notes that the government has established a one-stop-shop and an e-Registry, in order to decrease ineffective bureaucracy and to streamline requirements of business start-ups.

However, despite such progress, red tape associated with obtaining licences and permits continues to present problems in practice, as reported by the US Department of State 2012.

On the other hand, business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 perceive the level of government administrative requirements to be fairly manageable and easy. According to the World Bank & IFC Doing Business 2013, starting a business in Zambia requires a company to go through 6 procedures and 17 days, at a cost of 26.6% of the GNI per capita, which is less complicated, time-consuming, and expensive than the Sub-Saharan regional average. According to several 2011 news articles, such as The Financial Times and Mail & Guardian, the former ruling party Movement for Multiparty Democracy (MMD) has received credit for opening up to foreign investment and attracting investors. In contrast, President Sata is known for his 'fiery speeches' and has gained a reputation for 'populist attacks against investors'. This creates a sense of uncertainty, especially among mining companies, amid speculation that President Sata may introduce a new windfall tax. Therefore, companies, especially those planning to invest or already engaged in the extractive sector in Zambia, should be aware of the upcoming regulatory and policy reforms.

According to the Bertelsmann Foundation 2012, property rights are well-defined in theory; however, there are problems with practical implementation. Contractual and property rights are weak, courts are often inexperienced with commercial litigation, and court decisions are frequently slow, according to both the US Department of State 2013 and the Bertelsmann Foundation 2012. The result of this is a large number of pending commercial cases piling up, keeping the regulatory system from being prompt and transparent. Companies should note that court rulings are not free from political interference. Thus, according to the Global Competitiveness Report 2012-2013, the Zambian judiciary is not sufficiently independent from political influences of members of government, citizens, or companies. Nevertheless, the court system is reportedly now more assertive in relation to the government than in the previous years, thus, showing an improvement in judicial independence. The judiciary supports alternative dispute resolution, such as arbitration, which is regulated by the Arbitration Act 2000. Foreign arbitration awards are also binding and enforceable, as Zambia is signatory of the New York Convention 1958 and member of the International Centre for the Settlement of Investment Disputes (ICSID). Access the Lexadin World Law Guide for a collection of arbitration and other laws in Zambia.

Section 3 - Economy

Zambia has had one of the world's fastest growing economies for the past ten years, with real GDP growth averaging roughly 6.7% per annum, though growth slowed in 2015 to just over 3%, due to falling copper prices, reduced power generation, and depreciation of the kwacha. Zambia's lack of economic diversification and dependency on copper as its sole major export makes it vulnerable to fluctuations in the world commodities market and prices turned downward in 2015 due to declining demand from China; Zambia was overtaken by the Democratic Republic of Congo as Africa's largest copper producer.

Despite recent strong economic growth and its status as a lower middle-income country, widespread and extreme rural poverty and high unemployment levels remain significant problems, made worse by a high birth rate, a relatively high HIV/AIDS burden, and by market-distorting agricultural and energy policies. Economic policy inconsistency and poor budget execution in recent years has hindered the economy and contributed to weakness in the kwacha, which was Africa's worst performing currency during 2015. Zambia has raised

\$7 billion from international investors by issuing separate sovereign bonds in September 2012, April 2014, and July 2015, significantly increasing the country's public debt as a share of GDP.

Poor management of water resources has also contributed to a power generation shortage, which has hampered industrial productivity and contributed to an increase in year-on-year inflation to 23% by March 2016. Zambia's currency, the kwacha, also depreciated sharply against the dollar through 2015, before the central bank restricted lending.

Agriculture - products:

corn, sorghum, rice, peanuts, sunflower seeds, vegetables, flowers, tobacco, cotton, sugarcane, cassava (manioc, tapioca), coffee; cattle, goats, pigs, poultry, milk, eggs, hides

Industries:

copper mining and processing, emerald mining, construction, foodstuffs, beverages, chemicals, textiles, fertilizer, horticulture

Exports - commodities:

copper/cobalt, cobalt, electricity; tobacco, flowers, cotton

Exports - partners:

China 25.5%, Democratic Republic of the Congo 13%, South Africa 6.4%, South Korea 4.9%, India 4.3% (2015)

Imports - commodities:

machinery, transportation equipment, petroleum products, electricity, fertilizer, foodstuffs, clothing

Imports - partners:

South Africa 34.5%, Democratic Republic of the Congo 18.2%, Kenya 9.7%, China 7.3%, India 4.4% (2015)

Banking

The financial sector is made up of three sub-sectors according to the financial sector supervisory authorities. The banking and financial institutions sub-sector is supervised by the Bank of Zambia, the securities sub-sector (supervised by the Securities and Exchange Commission, and the pensions and insurance sub-sector (supervised by the Pensions and Insurance Authority). A number of foreign banks operate in Zambia.

Stock Exchange

The securities sub-sector is supervised by the Securities and Exchange Commission. The Stock Exchange is the Lusaka Stock Exchange.

Section 4 - Investment Climate

Executive Summary

Zambia is a landlocked state located in southern Africa. Today, it is faced with the challenges of diversifying its economy, which is 70 percent dependent on copper exports, and accelerating private sector-led growth to address the poverty of its people. For more than a decade, driven by high commodity prices, economic growth averaged more than 7 percent. However, rampant government spending, widespread borrowing, corruption, and inconsistent economic policies left the economy especially vulnerable to external shocks such as instability in copper prices and poor electricity generation. As a consequence, economic growth for 2016 is forecast to be less than 4 percent.

With the slowing of bilateral and multilateral financing due to austerity measures in developed economies and the World Bank’s reclassification of Zambia as a lower middle income country, financiers have not provided as many concessional loans to Zambia as previously. The Government of the Republic of Zambia (GRZ) instead has borrowed both on the international market through three successive Eurobonds and through contracts with foreign companies to conduct short-term development projects. The government spoke of fiscal consolidation in 2015 and of its intent to restrain spending and reduce borrowing, but has not yet taken concrete steps to do so.

The investment environment is still generally conducive to U.S. investment. However, the United States has a relatively small commercial presence in Zambia. Foreign direct investment remains dominated by large mining investments from Canada, Australia, the UK, and China, in addition to infrastructure and other projects performed almost entirely by Chinese companies. While the GRZ has made some improvements to the business environment over the past decade, cumbersome administrative procedures, instability and unpredictability of laws, the high cost of doing business due to poor infrastructure, the high cost of finance and inadequate human resources remain concerns. Despite these issues, foreign investment interest continues to be high, which should translate into growth in a number of economic sectors beyond mining, such as tourism, power generation and agriculture, particularly if the government decides to reduce or eliminate market-distorting subsidies and implement more consistent, market-friendly policies.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	76 of 168	www.transparency.org/country/#ZMB
World Bank’s Doing Business Report “Ease of Doing Business”	2016	97 of 189	www.doingbusiness.org/data/exploreconomies/zambia/
Global Innovation Index	2015	124 of 141	www.globalinnovationindex.org/content/page/gii-full-report-2015/#pdfopener
U.S. FDI in Zambia (\$M USD, stock positions)	2014	USD 127	http://bea.gov/international/direct_investment_multinationcomprehensive_data.htm

World Bank GNI per capita	2014	USD 1,680	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD
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Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produces scorecards for countries with a per capita gross national income (GNI) of \$4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

There are no laws or practices that discriminate against foreign investors by prohibiting, limiting or conditioning foreign investment in any sector of the economy. The country has affirmed its commitment to fostering private sector development and attracting foreign direct investment (FDI). FDI continues to play an increasing role in Zambia's economy, contributing to increased capital inflows and investment. FDI is implemented through the Zambia Development Agency (ZDA).

Other Investment Policy Reviews

There has not been an investment policy review since the one conducted in 2012 through the OECD. That review noted it was the first in sub-Saharan Africa conducted on the basis of the OECD Policy Framework for Investment. The OECD review made the following recommendations regarding Zambia's investment environment: 1) develop a harmonized national investment policy; 2) take better advantage of the investment promotion and facilitation options available; 3) undertake a cost-benefit analysis with regard to fiscal incentives; 4) improve the consultative mechanisms for policy development; 5) strengthen the framework for Public Private Partnerships (PPPs); 6) strengthen the oversight and enforcement mechanisms of the regulatory framework; and 7) develop mechanisms to channel industry demands for human resource development.

Following the review, the government has been considering new investment reforms, including development of a harmonized investment policy and a review of its tax incentive system and framework for PPPs. Zambia is also committed to drawing up an inclusive Green Growth Strategy. It has not yet, however, taken concrete action to implement the recommendations.

The GRZ has not conducted a trade policy review through the WTO or investment policy review through UNCTAD in the past four years.

References:

<http://www.oecd.org/daf/inv/investment-policy/zambia-investmentpolicyreview-oecd.htm>

Laws/Regulations on Foreign Direct Investment

Laws affecting foreign investment in Zambia include:

- The Zambia Development Agency Act of 2006 (ZDA Act), which offers a wide range of incentives in the form of allowances, exemptions, and concessions to companies.
- The Companies Act of 1994, which governs the registration of companies in Zambia.
- The Zambia Revenue Authority's Customs and Excise Act, Income Tax Act of 1966, and the Value Added Tax of 1995, which provide for general incentives to investors in various sectors.
- The Employment Act Cap 268, Zambia's basic employment law, which provides for required minimum employment contractual terms.
- The Immigration and Deportation Act Cap 123, which regulates the entry into and residency in Zambia of visitors, expatriates, and immigrants.

The ZDA Act promotes foreign investment and defines investor protections. The Act states that investments may only be legally expropriated by an act of Parliament relating to the specific property expropriated. In instances where there is a public purpose for acquisition, compulsory acquisition may be allowed, provided payment is made to the investor. Compensation must be made at fair market value and should be fully transferrable at the applicable exchange rate in the currency in which the investment was originally made. Although the ZDA Act states that compensation must be at market value, the method for determining fair market value is poorly defined.

The ZDA Act also makes provision for the ownership of land by investors. Leasehold land, granted under 99-year leases, may revert to the government if it is ruled to be undeveloped after a certain amount of time (generally five years). Land title is sometimes questioned and land is re-titled to other owners. The government of Zambia is considering investment reforms, including development of a harmonized investment policy and a review of its tax incentive system and framework for PPPs. The Zambian Development Agency website, detailing investment opportunities and providing online access to certain investment applications, is found at: <http://www.zda.org.zm>

The website of the Patents and Companies Registration Agency, which administers the registration and protection of commercial and industrial property including business registrations, is found at: <http://www.pacra.org.zm>

Business Registration

The following are the requirements for registering a foreign company in Zambia:

1. At least one and not more than nine local directors must be appointed as directors of a foreign company. At least one local director of the company must be resident in Zambia, and if the company has more than two local directors, more than half of them shall be residents of Zambia.

2. There must be at least one documentary agent (a firm, corporate body registered in Zambia or an individual who is a resident in Zambia).
3. A certified copy of the Certificate of Incorporation from the country of origin must be attached to [Form 46](#).
4. The charter, statutes, regulations, memorandum and articles, or other instrument relating to a foreign company must be submitted.
5. The Registration Fee of K4, 166 (about \$417.00) must be paid.
6. The issuance and sealing of the Certificate of Registration marks the end of the process for registration.

This information can also be found at the above web address of the Patents and Companies Registration Agency (PACRA).

Industrial Promotion

Zambia's industrial sector has performed relatively well during the past decade, and the country is already implementing a number of reforms and investments in infrastructure and trade facilitation. Employment in the industrial sector has increased in recent years, especially in the formal sector. The sectors where government has programs to attract investment include agriculture, construction, building and heavy equipment. Agriculture is at the core of the Zambian government's strategy for rural development and poverty reduction and economic diversification. Only about 15 percent of Zambia's arable land is still currently cultivated out of 58 per cent of land suitable for agricultural production.

There are also Multi Facility Economic Zones (MFEZ), part of a government program that aims to create a platform for Zambia to achieve economic development by attracting significant domestic and foreign direct investment (FDI) through a strengthened policy and legislative environment. The MFEZs blend the best features of free trade zones (FTZs), export processing zones (EPZs) and industrial parks/zones, and they create supportive administrative infrastructure, rules, and regulations. The blending of physical infrastructure with an efficient and effective administrative infrastructure is aimed at creating an investment environment that will attract major world class investors.

The government has invested in the national road network and rural feeder roads so as to create additional opportunities for agricultural growth. This project to complete 8000 km of road is now 35 percent (2500 km) complete, easing transportation of goods and services by road, which constitutes 90 percent of the movement of goods and services. The government is setting aside significant tracts of land in each province to develop commercial farm blocks to attract large-scale private investment into the industry. The Nansanga Farm Block in Central Province was the first block to be put out for tender in December 2010.

There continues to be an increasing demand for agricultural equipment, ranging from new and used tractors, harvesters, land clearing equipment, and irrigation devices. Tourism opportunities also abound with Zambia's 19 national parks and 34 game management areas, as well as 23 million hectares devoted to the conservation of animals. The government has identified tourism development as one of the central pillars in its strategy to diversify the

economy away from an over-reliance on extractive industries. Tourism infrastructure investment has concentrated on the town of Livingstone, home of Victoria Falls, which now receives direct flights from Johannesburg and Nairobi. The Zambian government intends to develop further the tourism sector in Livingstone, which already enjoys VAT-free status. There is also a need to promote tourism development in important tourism sites and set up a credit facility to encourage private participation in the sector. There are a number of cross-cutting factors that hamper Zambia's competitiveness, however; these include input costs, finance and exchange rate volatility, transport costs, and skills.

Limits on Foreign Control and Right to Private Ownership and Establishment

The ZDA Act does not discriminate against foreign investors, and all sectors are open to both local and foreign investors. Foreign and domestic private entities have a right to establish and own business enterprises and engage in all forms of remunerative activities, and no business ventures are reserved solely for the government. Although private entities may freely establish and dispose of interests in business enterprises, investment board approval is required to transfer an investment license for a given enterprise to a new owner. The government requires all internationally licensed firms operating a domestic cellular telephone network to offer ten percent of shares on the Lusaka Stock Exchange, per commitments made by agreement prior to entering the market. Telecom investors are required to disclose certain proprietary information to the ZDA as part of the regulatory approval process. Further information regarding information and communication regulation can be found at the website of the Zambia Information and Communication Technology Authority, located at: <http://www.zicta.zm>.

Privatization Program

There were no sectors or companies targeted for privatization in 2015 or early 2016. The privatization of parastatals that began in 1991 reduced state monopolies and saw the dismantling of INDECO and the Zambia Industrial and Mining Corporation conglomerate (ZIMCO), including Zambia Consolidated Copper Mines (ZCCM). The Zambia National Commercial Bank was privatized in 2007, with Rabobank of the Netherlands holding a controlling stake of 45 percent and the government holding 22 percent. The remaining few state-owned companies, such as the Zambia Electricity Supply Company (ZESCO), have been partially privatized with the state retaining a majority share.

In 2012, the government reversed the 2010 privatization of the Zambia Telecommunications Company (Zamtel), a 75 percent shareholding that had been sold to Libya's LAP GreenN for \$257 million. Citing corruption and flaws in the privatization process, the government unilaterally reversed the sale and re-appropriated the telecom company. LAP GreenN has since challenged the decision in the courts, and the case will be heard in a UK court. The Zambian High Court that first presided over the case ruled that it should be heard in the UK, since it is considered neutral ground. The Zambian government insists it will compensate LAP GreenN for its investment in Zamtel but cannot let ownership of the company be transferred back to the operator. The repayment of a \$103 million loan is considered to be the first step in compensating Lap GreenN over its investment in Zamtel.

Screening of FDI

The ZDA board screens all investments proposals and usually makes its decision within 30 days. The reviews appear routine and non-discriminatory, and applicants have the right to appeal the investment board decisions. The ZDA board comprises 16 members, including representatives from various government and private sector stakeholders. An investment application is subjected to a screening mechanism to determine, among other things, the extent to which the proposed investment will help create employment and the development of human resources; the degree to which the project is export oriented; the impact the proposed investment is likely to have on the environment and, where necessary, proposed environmental mitigation activities, in accordance with the Environmental Protection and Pollution Control Act; the possibility of the transfer of technology; and any other considerations the Board considers appropriate. The outcome of the review could reject the investment or impose additional requirements, especially where adverse environmental issues arise. Reviews are generally completed in a timely manner. An investor may, within fourteen days of receiving a Board decision, appeal the decision to the Minister of Finance and National Planning. Within thirty days of receiving the appeal, the Minister may confirm, set aside, or amend the decision of the Board. An investor dissatisfied with the decision of the Minister may, within thirty days, appeal to the High Court of Zambia against the decision. No negative reports have been received from U.S. firms concerning this process.

Competition Law

The Competition and Consumer Protection Commission (CCPC) is a statutory body established with a unique dual mandate to protect the competition process in the Zambian Economy and also to protect consumers. The CCPC was established in 1997 under the name Zambia Competition Commission (ZCC). The name was then changed in 2010 to Competition and Consumer Protection Commission (CCPC) following the enactment of the new Act called the Competition and Consumer Protection Act (CCPA) No. 24 of 2010 and repeal of the old Act. The mandate of the Commission cuts across all economic sectors. The CCPC regulates the Zambian economy to avoid restrictive business practices, abuse of dominant position of market power, anti-competitive mergers and acquisitions and cartels as these erode consumer welfare. The Commission is also mandated to enhance consumer welfare. In general terms, therefore, the principle aim of the Commission is to safeguard competition and ensure consumer protection but has been described as ineffectual and lacks legislative influence.

2. Conversion and Transfer Policies

Foreign Exchange

There are currently no restrictions or limitations placed on foreign investors in converting or transferring funds associated with an investment (including remittances of investment capital, earnings, loan repayments and lease payments) into freely usable currency and at a legal market-clearing rate. Investors are free to repatriate capital investments, as well as dividends, management fees, interest, profit, technical fees, and royalties. Foreign nationals can also transfer and/or remit wages earned in Zambia. Funds associated with investments can be freely converted into internationally convertible currencies. The Bank of Zambia pursues a flexible exchange rate policy, which generally allows the currency to freely float, though it has intervened heavily to support the kwacha since 2014, drawing an estimated \$1.75 billion from reserves to do so. Transfers of currency are protected by Article VII of the International

Monetary Fund (IMF) Articles of Agreement
(<http://www.imf.org/External/Pubs/FT/AA/index.htm#art7>).

Remittance Policies

There are no recent changes or plans to change investment remittance policies that tighten or relax access to foreign exchange for investment remittances. There are no restrictions on converting or transferring funds associated with an investment (including remittances of investment capital, earnings, loan repayments, lease payments) into freely usable currency and at legal market clearing rate. Foreign investors can remit through a legal parallel market, including one utilizing convertible, negotiable instruments such as dollar-denominated government bonds issued in lieu of immediate payment in dollars. There are no limitations on the inflow or outflow of funds for remittances of profits or revenue and there is no evidence to show that Zambia engages in currency manipulation tactics. Zambia is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), which conducted an assessment of the implementation of anti-money laundering and counter-terrorist financing (AML/CTF) measures in Zambia. ESAAMLG coordinates with other international organizations concerned with combating money laundering, studying emerging regional typologies, developing institutional and human resource capacities to deal with these issues, and coordinating technical assistance where necessary. Zambia has demonstrated some commitment to establish a strong AML/CTF framework. The enactment of the Prohibition and Prevention of Money Laundering Act and the Anti-Terrorism Act, as well as the establishment of the Anti-Money Laundering Investigations Unit (AMLIU) and the Financial Intelligence Center as the sole designated national agency mandated to handle AML/CTF and other serious offences, reflect this commitment.

3. Expropriation and Compensation

Investments may be legally expropriated by an act of Parliament that specifically names the property being expropriated. Leasehold land, which is granted under 99-year leases, may revert to the government if it is ruled to be undeveloped after a certain amount of time (generally five years). Land title is sometimes questioned and land is re-titled to other owners. In 2012, the GRZ took several actions similar to expropriation, reversing the privatization of one state-owned enterprise (SOE) and terminating two government concessions. In all three instances, full compensation for GRZ actions has yet to be finalized, though GRZ figures for 2012 foreign direct investment reflect a significant offset for the return of foreign acquisition capital. In January 2012, the GRZ reversed the June 2010 sale of the SOE Zambia Telecommunications Company (Zamtel) to Libya's LAP GreenN, which acquired a 75 percent shareholding in Zamtel for \$257 million as discussed above.

In September 2012, the GRZ terminated and re-acquired its concession agreement with the country's largest railway operator, Railway Systems of Zambia (RSZ). The GRZ said termination of the concession, which had been expected to last until 2023, was necessitated by RSZ's inefficiencies, including high levels of derailments and the loss of life and property. The concession was returned to Zambia Railways, the parastatal former operator of Zambia's railway networks.

There is no pattern of discrimination against U.S. persons by way of an illegal expropriation by the government or authority in the country. There are no high-risk sectors prone to expropriation actions.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The Zambian legal framework consists of a multiplicity of customary laws and statutory laws administered through a single formal court system. The statutory laws are derived from the British legal system with some of the British legislation still deemed to be of full force and effect within Zambia. The customary laws which remain in a state of flux are not written or codified, although some of them have been unified under Acts of Parliament. No clear definition of customary law has been developed by the courts nor has there been any systematic development of this subject. The courts in Zambia are somewhat independent, but contractual and property rights enforcement is weak and final court decisions can take a prohibitively long time. At times, the government has exerted pressure on the judiciary in politically controversial cases.

Access to justice is limited by low levels of knowledge of rights and the justice system, physical accessibility, financial accessibility and unreasonable delay in the dispensation of justice. There is passive tolerance of traditional courts by the state although they are considered illegal due to the requirement that in order for a court to exist there must be a warrant signed by the minister. They are however accepted under the ambit of customary law and practice. This situation is reflective of the dual character of the Zambian legal system.

Zambia has a written commercial law. The Commercial Court, a division of the High Court, deals with disputes arising out of commercial transactions. All commercial matters are registered in the Commercial registry and judges dealing with matters in the Court are experienced in commercial law. Appeals from the Commercial Court under January 2016 constitutional reforms would fall under the yet unstaffed Court of Appeals (as of March 2016); constitutional appeals would default to the Constitutional Court, another new judicial body. The Foreign Judgments (Reciprocal Enforcement) Act, Chapter 76, of the Laws of Zambia (cited as the Act) makes provision for the enforcement in Zambia of judgments given in foreign countries that accord reciprocal treatment. The registration of a foreign judgment is not automatic. Although Zambia is a state party to international human rights and regional instruments, it has a dualist system of jurisprudence which considers international treaty law as a separate system of law from the domestic law. Domestication of international instruments by Acts of Parliament is necessary for these to be applicable in the country but there are no systematic efforts to domesticate international instruments.

All land in Zambia vests in the President on behalf of the people of Zambia. The President may alienate land vested in him to any Zambian. The Lands Act, Chapter 184 of the Laws of Zambia, places a number of restrictions on the President's allocation of land to foreigners. The ZDA Act makes provision for ownership of land by investors. The ZDA, in consultation with the Ministry of Lands, assists an investor in identifying suitable land for investment, as well as assisting the investor to apply through the Ministry of Lands.

Bankruptcy

The Bankruptcy Act Cap 82 of the Laws of Zambia provides for the administration of bankruptcy of the estates of debtors and makes provision for punishment of offenses committed by debtors. It also provides for reciprocity in bankruptcy proceedings between Zambia and other countries and provides for matters incidental to and consequential upon the foregoing. This applies to individuals, local and foreign investors. Bankruptcy judgments are made in local currency, but can be paid out in any internationally convertible currency. Bankruptcy is criminalized in Zambia.

Investment Disputes

The Zambian Investment Code stipulates that claimants must first file internal dispute settlements with the Zambian High Court. Failing that, the parties may go to international arbitration, which the state recognizes as binding. Zambia is a member of the International Center for the Settlement of Investment Disputes (ICSID) and the United Nations Commission of International Trade Law (UNCITRAL). Relatively few investment disputes involving U.S. companies have occurred since Zambia's economy was liberalized following the introduction of multi-party democracy in 1991. Over the past 10 years, previous disputes involved delayed payments from state-owned enterprises to U.S. companies for goods and services and the delayed deregistration of a U.S.-owned aircraft that was leased to a Zambian airline company that went bankrupt.

In practice, there are also few recorded cases where Zambia has used sovereignty provisions to countermand its international obligations related to investment and settlement of disputes arising out of asset expropriation. For example, in December 2010, the government through the Bank of Zambia took over the ownership and management of the Finance Bank using the provision of the Banking and Financial Services Act. This included the unilateral award of a management contract to a competitor bank and an announcement of the intention to sell the bank.

International Arbitration

The Zambian Arbitration Act Number 19 of 2000 applies to both domestic and international arbitration and is based on the UNCITRAL Model law. Arbitration agreements must be in writing and parties may appoint an arbitrator of any nationality, gender or professional qualifications. Foreign lawyers cannot be used to represent parties in domestic or international arbitrations taking place in Zambia. There are no facilities that provide online arbitration, although there is an arbitral institution, the Zambia Institute of Arbitrators, which promotes and facilitates arbitration and other forms of Alternate Dispute resolutions (ADR). Arbitration awards are enforced in the High Court of Zambia, and judgments enforcing or denying enforcement of an award can be appealed to the Supreme Court.

Foreign arbitral awards are recognized and enforced in Zambia under the Arbitration Act, Section 27 of which provides for the recognition and enforcement of foreign arbitral awards. It takes about 18 weeks to enforce a foreign award. The United States has a Bilateral Investment Treaty with Zambia through the African Growth and Opportunity Act (AGOA) and through the Common Market for Eastern and Southern Africa (COMESA) of which Zambia is a member. There have been no claims under these agreements.

Zambia is party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, which entered into force on June 7, 1959, and party to the Convention of the Settlement of Investment Disputes between States and Nationals of Other States of 1965 and entered into force on October 14, 1966. These are being enforced through the Investment Dispute Convention Act Cap 42 of the Laws of Zambia.

ICSID Convention and New York Convention

Zambia is a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention) and a signatory to the United Nations Commission of International trade Law (UNCITRAL Model Law). In 2002, Zambia ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York convention).

Duration of Dispute Resolution – Local Courts

Judicial resolution in Zambia is done by the courts and different tribunals. The Zambian Judicial system was established in Article 91 of the Zambian Constitution and chapter 1 of the laws of Zambia – but was amended in January 2016 – and it is comprised of seven main courts, namely: the Supreme Court, Constitutional Court, the High Court, Court of Appeal, the Industrial Relations Court, Subordinate Courts, Local Courts and such Lower Courts as may be prescribed by act of parliament. Local Courts are the lowest Courts in the Court hierarchy in Zambia. They have jurisdiction to adjudicate upon both civil and criminal matters with certain limitations. The Court exercise territorial jurisdiction as they are in almost every district of the country.

The Zambian legal system recognizes and provides for extra judicial resolution processes in the forms of arbitration, mediation, and negotiation. Arbitration is governed by the Arbitration Act number 19 of 2000 and it provides for the manner and procedure arbitration will be conducted in the country. An arbitral award in the country is binding on the parties subject to the arbitration. Arbitration awards are enforced in the High Court of Zambia and judgments enforcing or denying enforcement of an award can be appealed to the Supreme Court of Zambia. The Foreign Judgment (Reciprocal Enforcement) Act, Chapter 76 of the Laws of Zambia, provides that certain foreign judgments are enforceable in Zambia if they originate from countries whose courts are recognized under the Act. For a foreign judgment to be recognized by Zambian courts under the Foreign Judgment Enforcement Act, it has to be registered in the High Court of Zambia.

Section 4 of the Act sets out the rules detailing the application for registration and should generally be made within six years from the date of judgment or from the date of determination of the appeal. On average, it takes 14 weeks to enforce an arbitration award rendered in Zambia, that is from filing an application to a writ of execution attaching assets. Foreign arbitral awards are recognized and enforced in Zambia under the Arbitration Act. Section 27 of the Act provides for the recognition and enforcement of foreign arbitral awards. Zambia acceded to the New York Convention on Recognition and Enforcement of Foreign Arbitral awards of 1958 in 2002.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The GRZ continues to strive to be consistent with Trade Related Investment Measures (TRIMs) requirements. There is no known notification to the WTO of any inconsistencies regarding TRIMs or any known allegations from U.S. businesses.

Investment Incentives

The ZDA Act provides for a number of incentives available to both local and foreign investors. Under the Income Tax Act, Chapter 323 or the Customs and Excise Act, Chapter 322 of the Laws of Zambia, investors who invest not less than \$500,000 in the Multi Facility Economic Zone, an Industrial Park, a Priority Sector and invest in a Rural Enterprise under the ZDA Act, are entitled to the following fiscal incentives: zero percent tax rate on dividends for 5 years from year of first declaration of dividends; zero percent tax on profits for 5 years from the first year of operation and Zero percent import duty rate on capital goods, machinery including specialized motor vehicles for five years.

In addition to fiscal incentives, the above category of investors along with those who invest an amount not less than \$250,000 in any sector or product not provided for as a priority sector or product under the Act are entitled to investment guarantees and protection against state nationalization along with free facilitation for application of immigration permits, secondary licenses, land acquisition and utilities. For major investments, the Minister of Finance may specify additional incentives for investment in an identified sector or product of not less than \$10 million or equivalent in convertible currency in new assets that qualify for those incentives.

Research and Development

Foreign firms can participate in government financed and or subsidized research and development programs. The ZDA does not give specific incentives for research and development but there is a possibility of a company operating in a multi-facility economic zone (MFEZ) to qualify for such incentives.

Performance Requirements

Although performance requirements are not imposed, authorities expect commitments made in applications for investment licenses to be fulfilled. No requirements currently exist for local content, equity, financing, employment, or technology transfers. The government does not impose offset requirements or impose conditions on permission to invest in specific geographic area or local content, but investors are encouraged to employ local nationals.

The GRZ favors the use of local employment for unskilled workers as well as for skilled middle or senior management workforce. Under the ZDA Act, any foreign investor who invests a minimum of \$250,000 or its equivalent and employs a minimum of 200 employees of certain technical or managerial levels is entitled to a self-employment permit or resident permit. The ZDA assists the qualifying investor to obtain work permits for up to five expatriate employees. In practice, however, some foreign companies have had difficulty securing these permits, especially smaller-scale investors. Any entry permit holder can apply to be granted a dependent's pass for each of his dependents. The ZDA is also in the process of developing standards regarding investment performance benchmarks which it seeks to put in place within an MFEZ in order to assist the government in monitoring company performance against the commitments made when investment incentives are granted.

Data Storage

The GRZ does not follow forced localization, but encourages investors where possible to use domestic content in goods or technology if available. There is no requirement for foreign IT providers to turn over source code and or provide access to surveillance. The telecommunications sector is governed by the Information and Communications Technology Act No. 15 of 2009 (ICT Act) and falls under the Ministry of Transport, Works, Supply and Communications. The Zambia Information and Communication Technology Authority (ZICTA) regulates the provision of electronic communication services and products and monitors the performance of the sector, including the levels of investment and availability, quality, cost and standards of the electronic communication services. ZICTA is an autonomous and independent body and is not subject to the direction and control of any other person or authority, with certain exceptions. Under the ICT Act, any person may apply for a telecommunications license, either a service license or a supplier's license.

6. Protection of Property Rights

Real Property

Property rights and the regulation of property are well defined in principle, but face problems in practical implementation. Contractual and property rights are weak. Courts are often inexperienced in commercial litigation and are frequently slow in reaching their decisions. The ZDA Act ensures investors' property rights are respected. Secured interests in property both movable and real are recognized and enforced. Property can be owned individually, jointly in undivided shares, or by an entity such as a company, close corporation or trust, or similar entity registered outside Zambia. The ZDA Act provides for legal protection and facilitates acquisition and disposition of all property rights such as land, buildings and mortgages.

The Commissioner of Lands verifies that properties can be transferred, by checking if ground rent has been paid, and who is buying. It is important to note that the land in Zambia belongs to the State, and can only be purchased by Zambians, Zambian companies, established residents, or investors. Land held under customary tenure has no title, but where a sketch plan of the area exists, the chief can give written consent to an investor and a 14-year lease can be obtained for traditional land. Despite Zambia having abundant land for agriculture and other purposes, the process of land acquisition and registration is a major obstacle for investors. About 85 percent of available land is under traditional ownership. Its acquisition involves negotiations with traditional leaders who have to balance the demands of their subjects with the pressure to convert land for commercial purposes. Most available land has not been surveyed and mapped and, where this has been done, records are often outdated or difficult to retrieve from the Ministry of Lands.

The Ministry of Lands is centralized in Lusaka and faces problems of poor record keeping and slow processing of title deeds. To address these challenges, the government with the support of donor partners has been working to reform land policy, including modernization of the Lands Department at Ministry of Lands, establishment of Land Banks, establishment of a Land Development Fund, demarcation of Multi Facility Economic Zones and industrial parks, and development of farming blocks.

Intellectual Property Rights

Intellectual property laws in Zambia may cover such areas as domain names, traditional knowledge, transfer of technology, patents/copyrights, etc. Zambia is also party to several international intellectual property agreements. The legal framework for trademark protection in Zambia is adequate, however, enforcement of intellectual property rights is weak and courts have little experience with commercial litigation. Copyright protection is limited and does not cover computer applications. Currently, there are no reform bills pending for enactment. Although there are many pirated goods and counterfeits in Zambia, the main ones are: DVDs, CDs, audio-visual software, infant milk, pharmaceuticals, body lotions, motor vehicle spare parts (such as tires and brake pads), beverages, cigarettes, toothpastes, electrical appliances and agricultural inputs like fertilizer, pesticides, and corn seed. Recent enforcement has been effective against pirated musical and video recordings, cosmetics and software. Small-scale trademark infringement occurs for some packaged goods through copied or deceptive packaging.

The Zambia Police Service Intellectual Property Unit (IPU) carries out raids in shops and markets to confiscate counterfeits and pirated materials. The IPU tracks and reports of seizures of counterfeit goods but no consolidated record is available. There are fines for revealing business proprietary information, but they are not large enough to penalize disclosure adequately.

Zambia's patent laws conform to the requirements of the Paris Convention for the Protection of Industrial Property, to which Zambia is a signatory. It takes a minimum of four months to patent an item or process. Duplicative searches are not done, but patent awards may be appealed on grounds of infringement.

Zambia is a signatory to a number of international agreements on patents and intellectual property, including the World Intellectual Property Organization (WIPO), Paris Union, Bern Union, African Regional Industrial Property Organization (ARIPO), and the Universal Copyright Convention of UNESCO. Zambia is not listed in USTR's Special 301 report and neither is it listed in the notorious market report.

The Ministry of Commerce, Trade and Industry and the Patents and Company Registration Office (PACRA) are the leading institutions regarding the implementation of intellectual property laws in Zambia. The industrial property registration system at PACRA underwent an upgrade, which has seen the electronic documentation management system linking to the World Intellectual Property Organization's (WIPO's) WIPOSACN, which provides for digitization of intellectual property records. Even though major strides have been made in Zambia in the fight against piracy and counterfeiting, more still needs to be done. For example, Zambia needs to widen the scope of cooperation in the fight against IP crimes by cooperating with international organizations such as WIPO, the World Health Organization (WHO), the Food and Agriculture Organization (FAO) and others. It is also necessary to continually train IP crimes investigators so that they can be ahead of sophisticated pirates and counterfeiters. For additional information about treaty obligations and points of contact at local IP offices please see WIPO's country profiles at: <http://www.wipo.int/directory/en>.

Resources for Rights Holders

Contact at Post:

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Country/Economic Resources: www.amchamzambia.com;
<http://zambia.usembassy.gov/business.html>;
<http://zambia.usembassy.gov/servicesforamericans.html#attorneys>

7. Transparency of the Regulatory System

The GRZ has made strides towards introducing transparent policies to foster competition, although complaints arise from time to time. In the agricultural sector, government interventions through the purchase of maize (corn) at subsidized prices and the distribution of subsidized fertilizer continues to undercut the private sector's capacity to enter these markets. The unpredictability of import and export bans on commodities, especially on maize and other grains is a deterrent to private sector participation in commodity markets. There are no informal regulatory processes managed by non-governmental organizations or private sector associations that discriminate against foreign investors. The government has also adopted the use of Regulatory Impact Assessment (RIA) as part of the policy and legislative making process. The introduction of RIA is therefore expected to improve the decision making process, create a platform for Public Private Dialogue and healthy debate on economic development laws and policies, and ultimately improve the quality of regulation.

In 2015, the government introduced the Output Based Budget (OBB) as a tangible outcome of implementing the Planning and Budgeting Policy that requires a more result-oriented budget in line with national development priorities. The OBB also provides more relevant information for assessing government's estimates of revenue, expenditure and performance. In addition, the inauguration of the Treasury Single Account System took place in 2015. This system is a unified structure of bank accounts which gives a consolidated position of the government's cash resources. It aims to improve the government's ability to efficiently and effectively manage public financial resources by refining current payments processes, and eliminating redundant procedures between itself and its clients.

Proposed laws and other statutory instruments are usually not vetted with interest groups or published in draft form for public comment before coming into effect. Opportunities for comment on proposed laws and regulations sometimes exist through trade associations, such as the Zambia Chamber of Commerce and Industry, Zambia Association of Manufacturers, Zambia Chamber of Mines, Zambia Business Forum, and American Chamber of Commerce in Zambia. Stakeholder consultation in developing legislation and regulation has generally been poor under the current administration; however, the government has recently established a Business Regulatory Review Agency (BRAA) with the mandate to formalize public notice and comment requirements for new regulations. The BRAA, established after the enactment of the Business Regulatory Act in 2014, strives to improve the quality of regulations and ensure cost effective and efficient business regulation in Zambia.

8. Efficient Capital Markets and Portfolio Investment

Government policies generally facilitate the free flow of financial resources to support the entry of resources in the product and factor market. Banking supervision and regulation by the Bank of Zambia (BoZ), the central bank, has improved over the past few years. Improvements include revoking licenses of some insolvent banks, denying bailouts, limiting deposit protection, strengthening loan recovery efforts, and upgrading the training and incentives of bank supervisors. Although some improvements have been registered in recent years, credit to the private sector is expensive and readily available only for low-risk investments. One factor inhibiting lending is a culture of tolerating loan default, which many borrowers view as a minor transgression. In addition, high returns on government securities have historically encouraged commercial banks to invest heavily in government debt, to the exclusion of financing productive private sector investments.

The Lusaka Stock Exchange (LuSE) is structured to meet international recommendations for clearing and settlement system design and operations. There are no restrictions on foreign participation in the LuSE, and foreigners may invest in stocks on the same terms as Zambians. The LuSE has offered trading in equity securities since its inception and, in March 1998, the LuSE became the official market for selling Zambian Government bonds. Investors intending to trade in a listed security or government bond are now mandated to trade via the LuSE.

The market is regulated by the Securities Act of 1993 and enforced by the Securities and Exchange Commission of Zambia. Secondary trading of financial instruments in the market is very low or non-existent in some areas. Existing policies facilitate the free flow of financial resources into the product and factor markets. The government and the central bank respect IMF Article VIII by refraining from restrictions on payments and transfers for current international transactions. Credit is allocated on market terms and foreign investors can get credit on the local market, although local credit is relatively expensive and most investors prefer to get credit from outside the country.

Money and Banking System, Hostile Takeovers

Zambia's banking sector is considered healthy and relatively well-developed in the African context, although the financial sector remains highly concentrated, with the largest four banks still holding nearly two-thirds of total banking assets as of 2013, which is the latest information currently available. The dominance of the four largest banks in deposits and total assets has been diluted by increased market capture of smaller banks and new industry entrants, an indication of growing competitive intensity in this segment of the banking market. In the past few years, the new foreign banks captured an average of 3 percent of the deposit market. Government policies generally facilitate the free flow of financial resources to support the entry of resources in the product and factor market. There has been a steady increase in electronic banking and related services over the last five years. Banking supervision and regulation by the BoZ has improved over the past few years. Improvements include revoking licenses of some insolvent banks, denying bailouts, limiting deposit protection, strengthening loan recovery efforts, and upgrading the training and incentives of bank supervisors.

The Zambian banking sector will continue to expand robustly over the years ahead with asset growth set to be driven by loan expansion, and increased take-up by retail clients of more

sophisticated banking services such as debit cards. Mobile banking will also play an important part in the growth of the Zambian banking sector. The Banking and Financial Services Act, Chapter 387 of the Laws of Zambia, and the Bank of Zambia Act, Chapter 360 of the Laws of Zambia govern the banking industry. The Bank of Zambia regulates the banking industry. There are no restrictions on a foreigner's ability to establish a bank account. Private firms are open to foreign investment through mergers and acquisitions. The Competition Consumer Protection Commission reviews and handles mergers and acquisitions.

The High Court of Zambia may reverse decisions by the Commission. Under the Competition and Consumer Protection Act No. 24 of 2010, foreign companies without a presence in Zambia and taking over local firms do not, however, have to notify their transactions to the Commission as it has not established disclosure requirements for foreign companies setting up or acquiring existing businesses in Zambia.

The banking sector is comprised of 19 commercial banks, 15 of which are foreign-owned, three of which are locally owned, and one, which is jointly owned by the Zambian and Indian governments. The financial sector accounts for about seven percent of GDP. The BoZ increased capital requirements for locally and foreign-owned banks in 2014 to \$20 million and \$100 million, respectively. As of December 2015, of the 19 registered banks, 15 have met the minimum primary capital requirements whilst the other four are on recapitalization plans that extend beyond the original deadline.

The Bank of Zambia reports that, as of December 2015, total banking sector assets stood at 63.9 kwacha billion (\$5.7 billion) compared to 47.4 billion (\$4.2 billion) for the same time in 2014. The significant increase noted was largely attributed to balances with financial institutions abroad which more than doubled, increasing by 110.8 percent or 5.96 billion kwacha (\$533 million) to 11.34 kwacha billion (\$1 billion) as of end-December 2015 from 5.38 billion kwacha (\$480 million) as at end-December 2014. Secondly, the net loans and advances also increased by 20.3 percent or 4.20 billion kwacha (\$375 million) to 24.85 billion kwacha (\$2.2 billion) from 20.65 billion kwacha (\$1.8 billion) over the same period. Equally important, bank balance sheets grew from the depreciation of the kwacha, as kwacha values of foreign currency denominated assets and liabilities increased significantly during the period under review. As of December 2015, net loans and advances accounted for 38.9 percent of total assets compared to 42.5 percent in December 2014, while balances with financial institutions abroad accounted for 17.8 percent compared to 11.1 percent in December of 2014.

9. Competition from State-Owned Enterprises

There are few SOEs remaining in Zambia, and all have serious operational and management challenges. For example Zambia Electricity Supply Corporation (ZESCO) Ltd is responsible for generation, transmission, and distribution of electricity in Zambia. Two private entities are contracted to supply electricity to some mines. Copperbelt Energy Corporation supplies electricity to mining companies on the Copperbelt, while NorthWestern Energy Company supplies power to Lumwana (Barrick Gold) Mine in Solwezi. Zambia has two categories of SOEs, those incorporated under the Companies Act and those established by particular statutes, referred to as statutory corporations. There is a published list of SOEs in the Auditor General's annual reports; SOE expenditure on research and development is not detailed. The

SOEs are governed by Boards of Directors that are appointed by government, with consultations and participation of the private sector. Their independence, however, is limited as most boards have majority government officials and as board members appointed by the line minister from the private sector or civil society can be removed.

In principal, SOEs do not enjoy preferential treatment by virtue of government ownership, however, they may obtain protection where they are not able to compete or face adverse market conditions. The Zambia Information Communications Authority Act has a provision restricting the private sector from undertaking postal services that would directly compete with the Zambia Postal Services. Zambia is not party to the Government Procurement Agreement (GPA) within the framework of the World Trade Organization (WTO); however, private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit and other business operations such as licenses and supplies.

SOEs can and do purchase goods or services from private sector including foreign firms. SOEs are not bound by the Government Procurement Agreement and can procure their own goods, works and services. SOEs are subject to the same tax policies as their private sector competitors. SOEs are not afforded material advantages such as preferential access to land and raw materials. SOEs are audited by the Auditor General's Office, using international reporting standards. Audits are carried out annually, but delays in finalizing and publishing results are common. Controlling officers appear before a Parliamentary of Committee for Public Accounts to answer audit queries. Audited reports are submitted to the president for tabling with the National assembly, in accordance with Article 121 of the Constitution of Zambia and the Public Audit Act, Cap 378 of the Laws of Zambia.

OECD Guidelines on Corporate Governance of SOEs

As mentioned above, SOEs in Zambia are governed by Boards of Directors that are appointed by government in consultations and participation of the private sector. The chief executive of the SOE reports to the Board chairperson. In the event that the SOE declares dividends, these are paid to the Ministry of Finance and National Planning. The Board chairperson is informally obliged to consult with government officials before making decisions. The line minister appoints members of the board of directors from public services, private sector and civil society. Zambia strives to adhere to OECD Guidelines on Corporate Governance and the Guidelines are sufficient to ensure a level playing field between SOEs and private sector enterprises.

In 2015, the government transferred most SOEs from the Ministry of Finance to the newly created Industrial Development Corporation (IDC). The move, according to the government, was to allow line ministries to focus on policy making thereby giving the IDC direct mandate and authorization to oversee SOE performance and accountability on behalf of the government. The IDC's oversight responsibilities include all aspects of governance, commercial, financing, operational, and all matters incidental to the interests of the State as shareholder. All investment disputes are resolved through the High Court of Zambia and court decisions are normally fair and do not favor SOEs.

Sovereign Wealth Funds

The GRZ had planned to launch a Sovereign Wealth Fund following the 2014 reincorporation of the IDC parastatal holding company, but has yet to set up the fund. At present, Zambia does not yet have a Sovereign Wealth Fund. The 2016 National Budget restated the government's intention to establish a Sovereign Wealth Fund.

10. Responsible Business Conduct

Zambia's economy has shown relatively strong performance since the 1990s, and private sector development reforms are expected to help maintain a positive momentum. The government limits its direct involvement in business to strategic investments deemed critical for the delivery of public goals and services, and seeks to maintain high standards of consumer protection. There are no clearly formulated and well-implemented Responsible Business Conduct (RBC) policies that could help raise the contribution to society of strongly performing sectors of the economy.

Zambia is a high-performer among low-income countries in terms of RBC and scoring better than large economies like Nigeria on the Global Competitiveness Report.

The broad policy approach is that of providing the enabling environment for private sector driven investment in economic activities. The principle adopted by the government has been to limit its direct involvement in business to strategic investments deemed critical for the delivery of public goals and services. These mainly cover investments in physical infrastructure such as road networks, energy, and water supply systems. Other investments undertaken directly by the government are in order to improve access by the vulnerable and disadvantaged members of the population. An example of this is the Farmer Input Support Program in which the government subsidizes fertilizers and seeds inputs to small-scaled farmers. The government also participates in crop marketing by offering more attractive producers prices for staples like maize to small-scaled farmers through the Food Reserve Agency (FRA).

Apart from involvement in strategic public investment activities, the government has placed priority focus on the implementation of legislative and regulatory reforms. Among the notable measures accompanying most investment ventures is that of making Environmental Impact Assessments (EIAs) an integral prerequisite for the approval processes. For some investment sectors, such as insurance, banking and financial services, the submission of annual audited financial statements are a licensing condition. In the case of financial services, quarterly publication of financial statements is compulsory and rigidly enforced by the BOZ.

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). At the national level, the Industrial and Labor Relations Act addressed labor issues. The Act provides the legal framework for trade unions, employers' organizations and their federations, the Tripartite Consultative Labor 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 make provisions for the regulation of minimum wage levels and minimum conditions of employment. Currently, the

average minimum wage per month for employees starting with general or domestic workers in Zambia is 700 kwacha (\$63).

The government of Zambia seeks to maintain high standards of consumer protection by, for example, following the United Nations Guidelines for Consumer Protection. The Competition and Fair Trading Act of 1994 encourages competition in the economy, protects consumer welfare, strengthens the efficiency of production and distribution of goods and services, secures the best possible conditions for the freedom of trade, expands the base of entrepreneurship, and regulates monopolies and concentrations of economic power. The Act was superseded in 2010 by the Competition and Consumer Protection Act which includes specific consumer protection provisions and renames the Commission as the "Competition and Consumer Protection Commission." The Board of Commissioners is composed of representatives from different ministries and professional associations. As a matter of practice, all statutory agencies are encouraged by the government to regularly engage in stakeholder consultations whenever new laws and regulations are being considered. In other cases, public hearings have been institutionalized and made integral to the consideration and implementation of measures that affect business.

The overall approach of the government has been that of promoting transparency and the active participation of the private sector in matters that affect their business affairs. Through this framework, instances have been noted where the submissions of the business sector have influenced policy measures and laws in the country. Generally, all regulatory agencies that issue operating licenses have statutory reporting requirements which businesses operating under their laws and regulations must meet. For example, the Banking and Financial Services Act has stringent reporting provisions that require all commercial banks to submit weekly returns indicating their liquidity position. Late submission of the weekly returns or failure to meet the minimum core liquidity and statutory reserves attract punitive penalty interest, and may lead to the placement of non-compliant commercial banks under direct supervision of BoZ, closure of the undertaking, or the prosecution of directors.

All companies listed under the Lusaka Stock Exchange (LuSE) are obliged to publish interim and annual financial statements within three months after the close of the financial year. Listed companies are also required to disclose in the national printed media any information that can affect the value of the price of their securities. According to the Companies Act, Chapter 388, company directors need to generate annual account reports after the end of each financial year. The annual account, the auditors' report or reports on the accounts, and the directors' report should be sent to each person entitled to receive notice of the annual general meeting and to each registered debenture holder of the company. A foreign company needs to submit annual accounts and an auditors' report to the Registrar. Zambia strives to adhere to OECD Guidelines on Corporate Governance and the Guidelines are sufficient to ensure a level playing field but the government does not maintain a National Contact Point (NCP) for OECD Multi-National Enterprises guidelines.

Regulatory inadequacies are being actively addressed, especially related to consumer protection and anti-competition practices. Financial and technical constraints are however impacting the pace of regulatory reforms. In other cases, the business sector is being encouraged to adopt practices that promote responsible business conduct on a "voluntary basis." For example, the Institute of Directors Zambia (IODZ) has been actively advocating

the introduction of “Board Charters” that set out good corporate standards (such as ethical conduct) that business enterprises will implement and be associated with. The *Citizens Economic Empowerment Commission (CEEC)* is also promoting the adoption of “Sector Codes” by the business sectors that commit themselves to supporting citizen’s economic empowerment.

Most mining companies have acceded to the Extractive Industries Transparency Initiative (EITI) adapted in February 2009 for Zambian conditions, and they are allowing independent audits of their operations and financial reporting. The results of the EITI audits are available to the general public. Zambia has been an EITI compliant country since September 2012. The government receives revenue in the form of taxes from all extractive industries, including mining. The mining sector accounts for about 10 percent of GDP and around 70 percent of export revenue. All exploration and mining activities are governed by the Mines and Minerals Act of 2008 and other mining relation regulations that include: the Mineral Royalty Tax (Repeal) Act, the Petroleum (Exploration and Production Act), the Explosives Act, and the Environmental Protection and Pollution Control Act. The GRZ, through the Ministry of Mines and Minerals, conducts open bidding and grants mining licenses to qualified bidders. The Zambian Revenue Authority collects all payments from mining companies and remits them to the Ministry of Finance. The Zambian Revenue Authority regularly publishes production volumes for copper, cobalt, and gold, and the names of companies operating in the country.

In addition, a number of public institutions have established Integrity Committees that address the strengthening of internal policies and procedures for combating corruption. The private sector is also being encouraged to either establish similar Integrity Committees or to strengthen their corporate governance standards to effectively address corruption. Most local manufacturers of consumer products are also submitting to voluntary product testing and certification by the Zambia Bureau of Standards (ZABS). The ZABS certification is also embossed on the product labels, as a “mark of quality” indicating the product’s suitability for consumption. Legislative measures have also been agreed with food processors and drug manufacturers to indicate product manufacturing and expiry dates. A number of supermarket chains have also adopted barcoding of products which facilitates not only stock control but also tracing of each product that is stocked and sold to consumers.

The government is a signatory to and has ratified most UN conventions relating to business conduct. The government has also subscribed to a range of other international conventions that it wishes to domesticate in Zambian law. The domestication of all these conventions has been protracted, thus limiting the effects of the measures. The government fully supports measures that encourage responsible business conduct and has recognized the importance of adopting international practices. Main challenges are those of domesticating international practices and strengthening regulatory capacities. To an extent, reliance has been placed on voluntary compliance, unofficial intermediation, consultation with stakeholders, and showcasing of best practice.

A strong legal and institutional framework for RBC would also include effective implementation and enforcement of the law. Grievance mechanisms should effectively investigate, punish and redress issues that companies bring forward. RBC is compromised in a situation where the government is not able to enforce laws and cannot provide remedies to

parties affected by company operations. Moreover, it is necessary to ensure that RBC regulations themselves are sufficiently strict (and regularly updated) so as to encourage responsible company behavior. The effectiveness of regulatory agencies is further impacted by a lack of robust coordination mechanisms. Cases abound of regulatory conflicts faced by the private sector, where statutory institutions introduce measures that countermand the laws and regulations of their counterparts. There is therefore no clear framework for inter-agency collaboration, especially as concerns investment promotion and communication between investors and other government agencies.

11. Political Violence

Zambia does not have a history of large-scale political violence, though skirmishes among partisans of political parties are relatively widespread. Zambia held primarily peaceful presidential, parliamentary and local government elections in September 2011 that ushered in a change of governing party from the Movement for Multiparty Democracy to the Patriotic Front, led by late President Michael Sata. President Sata died in office in October 2014 and was succeeded in January 2015 by President Edgar Lungu, following a relatively peaceful and closely contested presidential by-election.

Through 2015 and increasingly into 2016, there have been numerous clashes of supporters of the different political parties, resulting sometimes in injuries and arrests. Police generally have disproportionately targeted opposition political supporters for arrest and have restricted public gatherings by opposition groups. With a general election looming August 11, 2016, and a potential second round to follow, tensions likely will remain high.

12. Corruption

Zambia has made some progress in the fight against corruption in the last decade, as reflected by improvements recorded in several governance indicators. In recent years, corruption has again emerged as a main impediment to governance and development programs. The legal and institutional frameworks against corruption have been strengthened, and efforts have been made to reduce red tape and streamline bureaucratic procedures, as well as to investigate and prosecute corruption cases, including those involving high-ranking officials. In spite of progress made, corruption remains a serious issue in Zambia, affecting the lives of ordinary citizens and their access to public services. Corruption in the police emerges as an area of particular concern (with frequency of bribery well above that found in any other sector), followed by corruption in the education and health services. The government in November 2015 also cited corruption in public procurements and contracting procedures as major areas of concern.

The Anti-Corruption Act of 2010 and the National Anti-Corruption Policy of 2009, which stipulate penalties for different offenses, govern Zambia's anti-corruption activities. The laws extend to political parties and to family members of officials. While legislation and stated policies on anti-corruption are adequate, implementation sometimes falls short. Zambia lacks adequate laws on whistleblower protection, asset disclosure, evidence, and freedom of information.

The government encourages private companies to establish internal codes of conduct that prohibit bribery of public officials. Most large private companies have internal controls,

ethics, and compliance programs to detect and prevent bribery. The Integrity Committees (ICs) Initiative is one of the strategies of the National Anti-Corruption Policy (NACP), which is aimed at institutionalizing the prevention of corruption. The NACP was approved in March 2009 and the Anti-Corruption Commission spearheads its implementation. Eight institutions were targeted, including the Zambia Revenue Authority, Immigration Department, and Ministry of Lands. The government has taken measures to enhance protection of whistleblowers and witnesses with the enactment of the Public Disclosure Act as well as strengthen protection of citizens against false reports in line with Article 32 of the UN Convention.

The Anti-Corruption Commission (ACC) has the mandate to spearhead the fight against corruption in Zambia. The Anti-Money Laundering Unit of the Drug Enforcement Commission (DEC) also assists with investigation of allegations of misconduct. An independent Financial Intelligence Commission (FIC) was formed in 2010, but has not yet developed the capacity to take the lead in investigating financial crimes; DEC still carries out this function. Zambia's anti-corruption agencies generally do not discriminate between local and foreign investors. Transparency International has an active Zambian chapter.

U.S. firms and the Zambian government have identified corruption as an obstacle to foreign direct investment. Corruption is most pervasive in government procurement and dispute settlement. Giving or accepting a bribe by a private, public or foreign official is a criminal act, and a person convicted of doing so is liable to a fine or a prison term not exceeding five years. A bribe by a local company or individual to a foreign official is a criminal act and punishable under the laws of Zambia. A local company cannot deduct a bribe to a foreign official from taxes. Bribery and kickbacks, however, remain rampant and difficult to police, given government officials' complicity in or benefits from corrupt deals.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Zambia signed and ratified the United Nations Convention against Corruption in December 2007. Other regional anti-corruption initiatives are the Southern Africa Development Community (SADC) Protocol against Corruption, ratified on July 8, 2003, and the African Union (AU) Convention on Preventing and Combating Corruption, ratified on March 30, 2007. Zambia is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, but Zambia is a party to the Anticorruption Convention.

Resources to Report Corruption

Contact at government agency responsible for combating corruption:

Ms. Irene Lamba
Deputy Director
Anti-Corruption Commission
Kulima House, Cha Cha Cha Road, P. O. Box 50486, Lusaka
+260-211 237914
ilamba@acc.gov.zm

Contact at "watchdog" organization that monitors corruption:

Mr. Goodwell Lungu
Executive Director
Transparency International Zambia
3880 Kwacha Road, Olympia Park, P. O. Box 37475, Lusaka
+260- 211 290080
tizambia@zamtel.zm

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Zambia has signed bilateral reciprocal promotional and protection of investment protocols with most of the Common Market for Eastern and Southern Africa (COMESA) and the SADC member states. In November 2001, COMESA signed a Trade and Investment Framework Agreement with the United States. On October 2, 2000, Zambia became a beneficiary of the African Growth and Opportunity Act (AGOA). Zambia initiated market access through the Eastern and Southern Africa (ESA) interim Economic Partnership Agreement (IEPA) with the European Union on September 30, 2008. In completing these negotiations, the provisions of trade in goods chapter and related annexes of the ESA IEPA now apply to Zambia. Zambia entered into double taxation agreements with Mauritius, Ireland, and Seychelles in 2015.

Zambia does not have a bilateral investment treaty, a free trade agreement, or a bilateral taxation treaty with the United States.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Zambian Multi-Facility Economic Zones (MFEZ) was first established under the auspices of the Triangle of Hope (ToH) initiative, introduced in 2005 by the Japan International Corporation Agency (JICA). In early 2007, the government announced the creation of MFEZ in which investors enjoy waivers on customs duty on imported equipment, excise duty, and value added tax, among other concessions. There are two MFEZ currently operating, the Chinese Chambishi MFEZ on the Copperbelt – including its extension, the Lusaka East MFEZ – and the Lusaka South MFEZ. Foreign-owned firms enjoy the same investment opportunities in Foreign Trade Zones. The Zambia Development Agency Act No. 6 of 2006 is the primary legislation for investment in Zambia. An investor, foreign or local, is free to identify and suggest any other location in the country deemed economical for development of a multi-facility economic zone, although the government has prioritized designated areas in Lusaka, Ndola, Mpulungu, Chembe, Nakonde, Kasumbalesa, and Mwinilunga. Investors are encouraged to provide local employment and skills transfer to local entrepreneurs and communities. Investors are also encouraged to utilize local raw materials and intermediate goods and engage in technology transfer to qualify to operate in MFEZ.

Zambia, like other countries has not been left out in harnessing its business relation with the international community. This has been seen in the achievement of membership to various organs that directly promote international trade such as Common Market for Eastern and Southern Africa (COMESA), Southern African Development Community (SADC), and the African Growth Opportunity Act (AGOA). On October 31, 2000, the COMESA Free Trade Area (FTA) was launched. COMESA established a customs union in June 2009, during the 13th Summit of the COMESA Heads of State and Government. The top five intra-COMESA exports

from Zambia include tobacco, raw sugarcane, wire, refined copper, and cement. The SADC (Southern Africa Development Community) Trade Protocol Member States – a regional grouping of 13 African states – came into force in 2008. The SADC Trade Protocol promotes regional integration through trade development and develops natural and human resources for the mutual benefit of their people. Trade among SADC member states is conducted on reciprocal preferential terms. Rules of Origin define the conditions for products to qualify for preferential trade in the SADC region. Products have to be “wholly produced” or “sufficiently processed” in the SADC region to be considered compliant with the SADC Rules of Origin. The SADC Rules of Origin are product-specific and not generic, as are the rules of origin for COMESA.

Zambia performs better than the averages of sub-Saharan African and lower middle income countries in the areas of information availability, involvement of the trade community, appeal procedures, and automation, according to OECD trade facilitation indicators. Zambia’s performance for internal border agency co-operation and governance and impartiality is below the averages of sub-Saharan African and lower middle income countries.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2014	124.4 billion kwacha	2014	\$27.00 billion	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2014	N/A	2014	\$127	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country’s FDI in the United States (\$M USD, stock positions)	2012	N/A	2014	N/A	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as	2014	N/A	2014	11%	N/A

percent host GDP					
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*Host country statistical data used are almost non-existence. If they are, there is not a central source for retrieving the data.

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (U.S. Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	15,640	100%	Total Outward		100%
United Kingdom	3,384	22%	N/A		
Canada	2,537	16%	N/A		
Switzerland	1,752	11%	N/A		
China, P.R. Mainland	1,460	9%	N/A		
Australia	1,434	9%	N/A		

"0" reflects amounts rounded to +/- USD 500,000.

Table 4: Sources of Portfolio Investment

Data not available.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

mixed legal system of English common law and customary law; judicial review of legislative acts in an ad hoc constitutional council

International organization participation:

ACP, AfDB, AU, C, COMESA, EITI (compliant country), FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, ITUC (NGOs), MIGA, MONUSCO, NAM, OPCW, PCA, SADC, UN, UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNISFA, UNMIL, UNMISS, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Exchange controls were abolished in 1994, except for the specific items outlined in the Statutory Instrument No 44 of 1994 – this resulted in the liberalisation of restrictions on foreign currency.

The agency through which exchange control is implemented and regulated is the Bank of Zambia, the main commercial banks and bureau de change. The Bank of Zambia may issue binding instructions or directions to financial institutions.

The Minister of Finance and National Planning has wide powers to make regulations relating directly or indirectly to:

- a) Gold, currency and securities transactions
- b) Exchange transactions
- c) The control of imports and exports.

Dealings in foreign currency without the Bank of Zambia's permission are restricted.

Only authorised dealers are allowed to buy or sell to any person or to do any act connected with foreign currency in relation to any person outside Zambia.

The foreign exchange regime in Zambia is much liberalised. Foreign currency for an amount up to US\$5 000 can be obtained from a bureau de change and amounts exceeding US\$5 000 can be obtained from commercial banks after giving reasons for requiring the amounts. The furnishing of information is intended to facilitate monitoring foreign currency movement and not necessarily as a restriction.

Treaty and non-treaty withholding tax rates

Canada
China
Denmark
Finland
France
Germany
India
Ireland
Italy
Japan
Kenya
Netherlands
Norway
Romania
South Africa

Sweden
 Switzerland
 Tanzania
 Uganda
 United Kingdom

Since the domestic withholding tax rate is 15%, the maximum rate suffered by any person is restricted to 15%

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti - Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%

World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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