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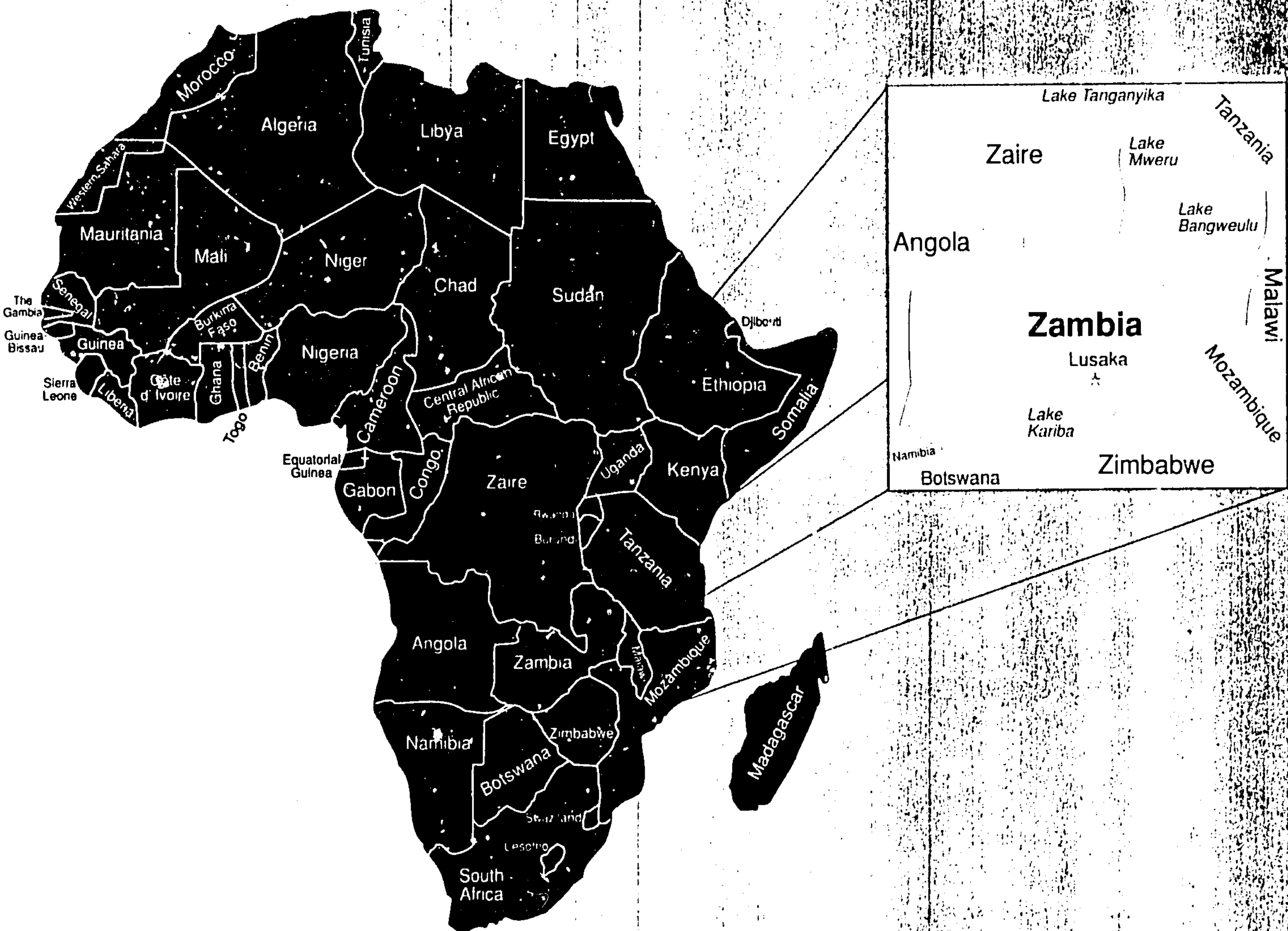
Critical Issues For American Investors in ZAMBIA



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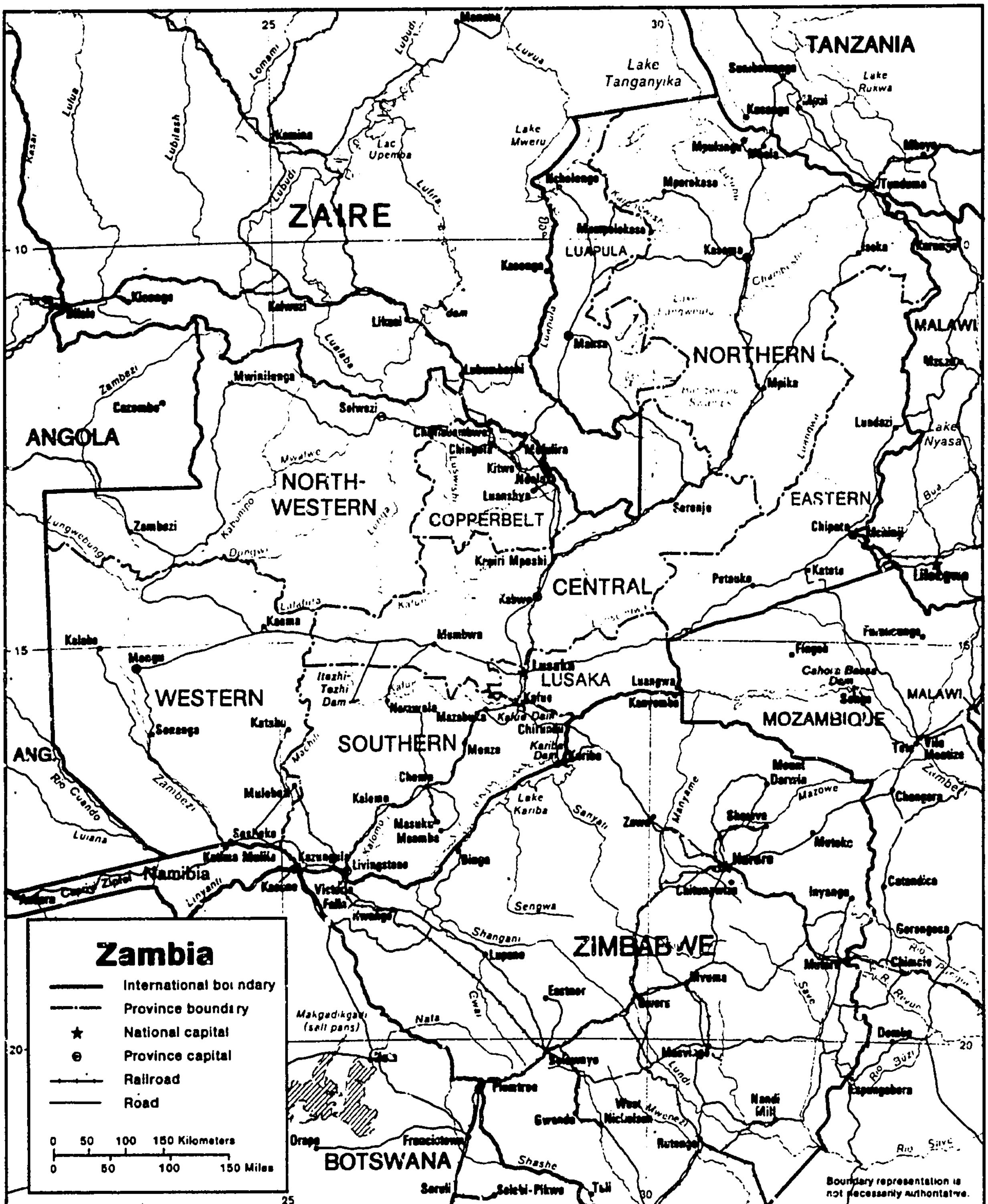

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EXECUTIVE SUMMARY

Zambia offers a considerable range of opportunities for profitable new investments or joint ventures by U.S. firms. Among the nation's principal attractions as a site for business are the following:

- The nation is rich in natural resources. While the metals sector has long been a mainstay of the economy, a wealth of opportunities exist in agriculture, agroprocessing, manufacturing, tourism development, services, and retail trade.
- Zambia has a large pool of inexpensive and committed English-speaking workers. While unemployment is high and technical skills are short, literacy levels are high by regional standards and the government provides tax and other concessions for expatriate managers and technicians in industry.
- Zambia is well-situated to export goods and services throughout eastern and southern Africa. The country enjoys excellent relationships with its neighbors and, while land-locked, has numerous routes to the Atlantic and Indian Oceans.
- An extensive network of government-owned industries is slated for privatization over the short-term in all sectors of the economy.
- Zambia is included within the ACP (Lomé Convention) group of countries which enjoy privileged access to the European Community; SADCC, which enjoys privileged access to southern African markets; and the PTA Clearinghouse, which facilitates transactions among eastern and southern African countries.

The operating environment is challenging, however, for the following reasons:

- Zambia is undergoing a liberal transformation away from the statist policies of past governments, with far-reaching changes in the structure and legal framework for private enterprise, including privatization of government-owned industry.
- Zambia's economic policies are focused on restoring growth and equilibrium, while servicing a heavy debt load inherited from an earlier regime.
- There is a chronic shortage of foreign exchange that, in spite of liberal investment laws, makes it difficult to remit capital and profits at the present time.
- Infrastructure, including rail and road networks, telecommunications systems and electricity supply systems require major rehabilitation.

Following the restoration of multiparty democracy in 1991, Zambia has embarked on a program of reforms that will stabilize the economy and provide numerous incentives for foreign and domestic investors. Among the measures likely to benefit foreign investors that are already in place are the following:

- Deregulation of the economy and the lifting of price controls for all but a small number of staple items.

- Exemptions from customs duties and sales tax on machinery, equipment and spare parts required for the establishment, rehabilitation or expansion of new and existing enterprises.
- Exemptions from tax on dividends and royalties for a period of seven years on new investments.
- Exemptions from payment of all corporate income tax for a period of three years for new venture start-ups, and exemption of 75 percent for the following two years.
- Exemptions from the payment of selective employment tax on expatriate labor for a period of seven years.
- Free movement of remittances of earnings, dividends, royalties, interest, fees and foreign exchange receipts, with remittances indexed to the net value of investments.
- Actions to reduce the growth of the money supply, reduce inflation, and improve convertibility of the Zambian currency.
- Open General Licensing for cross-border trade.
- Establishment of a one-stop Investment Center to facilitate new investments and guarantee approvals within thirty days of application.
- Simplification of reporting and accounting by foreign-owned businesses.
- Guarantees for the security of foreign-owned business which prohibit nationalization in other than exceptional circumstances, and application of the terms of Zambia's membership in the Multilateral Investment Guarantee Agency.

Among the measures designed to promote economic growth and foreign investment that are scheduled for implementation over the short-term are the following:

- Improving the variety of financial institutions and capital sources, including the creation of a stock market and venture capital funds.
- Privatization of major parastatal companies in transport, telecommunications, agribusiness, insurance, banking, financial services, retail trade, and textiles.

1. Political, Social, and Economic Background

The land-locked Republic of Zambia is located in southeastern Africa, bordering eight other nations. The country is situated, for the most part, atop low plateaus to the east of the continental divide between the Indian and Atlantic Oceans. Most of Zambia's landscape is drained by the Zambezi River or its principal tributaries, the Kafue and Luangwa, which flow into the Indian Ocean.

The nation's climate is mild and is divided into three seasons: a cool dry season (April–August), a hot dry season (August–November), and a warm wet season (November–April). Maximum annual rainfall ranges between 1,200 millimeters in the north and east of the country to 750 millimeters in the southwest.

Zambia is well endowed with natural resources. More than two-thirds of the country's land is suitable for agriculture. The country has huge deposits of minerals, such as copper, cobalt, lead, zinc, and gemstones.

Zambia has a total area of 290,500 square miles and a population of about 8 million people, representing more than 70 indigenous ethnic groups. While ethnic and regional identity are important to Zambians, they are not as crucial to the balance of political power as they are in many other African countries.

English is Zambia's official language. Other major languages include Bemba, Nyanja, and Tonga, which are spoken by about two-thirds of the population.

Zambia is one of the most highly urbanized countries in Africa, with close to 58 percent of the population living in cities. The current population growth rate is estimated at 3.7 percent, despite an aggressive population control campaign by the government. At the present rate of growth, Zambia's population will double every 19 years. As with other nations in the region, Zambia has a high incidence of AIDS, a problem that has become a major drain on the country's financial and human resources.

Zambia's principal population centers are the capital, Lusaka (with a population of approximately 880,000), and the industrial centers of Kitwe (480,000) and Ndola (450,000).

1.1 History and Society

Zambia (formerly known as Northern Rhodesia) became a colony of Britain in 1899, when a charter was granted to South African mining magnate Cecil Rhodes, allowing him to exploit copper deposits and administer all territories under British influence north of the Limpopo River.

Between 1953 and 1963, the country was part of what was then called the Central African Federation consisting of Northern Rhodesia (now Zambia), Southern Rhodesia (now Zimbabwe), and Nyasaland (now Malawi). In 1964, Zambia was the first of the three partners in the federation to become independent, followed by Malawi in 1965. (Zimbabwe, which retained the name Rhodesia after Zambia's independence, declared unilateral independence in 1965 and, following a protracted armed struggle, became officially independent in 1980.)

Zambia's campaign for independence was spearheaded by the United Independence Party (UNIP), with Kenneth Kaunda as its president. For most of the first decade of independence, the country had a Westminster-style parliamentary system of government under a multiparty constitution. With the encouragement of then-President Julius Nyerere of Tanzania, Kaunda sought to transform Zambia into a quasi-socialist nation. In 1972, Kaunda's ruling party UNIP drove out the opposition and decreed the country to be a constitutionally mandated one-party state.

During the nearly two decades that followed, Kaunda presided over Zambia's decline from one of the strongest economies on the African continent to one of the poorest nations in the world. Much of this decline was a result of economic mismanagement and a squandering of the country's wealth of natural resources. Aggravating Zambia's plight were volatile swings in world market demand for copper, the staple of Zambia's export economy.

Despite the shortcomings in his management of the economy, Kaunda became one of Africa's most respected statesmen through his commitment to pan-African unity, his support for the independence of Zimbabwe and Namibia, and his opposition to apartheid. Zambia joined with other states neighboring Rhodesia and South Africa to form what was called the Front-Line States against white domination of southern Africa. Kaunda allowed the major African independence movements in the region—South Africa's ANC, Zimbabwe's ZANU–PF and Namibia's SWAPO—to open training bases in Zambia for their guerrillas. As a result, Zambia became a target of intermittent armed attacks by Rhodesian and South African military forces.

In spite of Kaunda's progressive image within the Front-Line States, he faced opposition at home resulting from the nation's economic decline and strict government controls over dissent and criticism. During the 1980s, Kaunda's government survived several coup attempts by the military. Hundreds of Zambians who had taken to the streets to demonstrate against rising prices and falling standards of living were killed or wounded by security forces.

Recurring food riots in Zambian cities eventually gave rise to the emergence of an organized opposition, the Movement for Multiparty Democracy (MMD) led by Frederick Chiluba, the head of the Zambian Congress of Trade Unions (ZCTU). After a bitter political war of attrition with the unofficial opposition, Kaunda's UNIP government finally agreed to legalize rival parties. Multiparty elections were held in November 1991, and the incumbent UNIP government lost heavily to MMD. In gracefully conceding defeat, Kaunda presided over Zambia's peaceful transition into southern Africa's first nonracialist multiparty democracy.

1.2 Economic Background

Following its independence from Britain, Zambia adopted a mixed economy, which centered around high-yield copper mining and which enjoyed high prices on the world market. Zambia prospered during its first independent decade, as the economy grew at more than 4 percent annually, a rate faster than most other economies in black Africa. With the success of mining industries, Zambians migrated to the cities and sought employment in the nation's Copperbelt. Copper provided more than 90 percent of total export earnings and accounted for more than 25 percent of the total GDP.

Rural migration and government attention to the mining sector, however, led to a decline in Zambian agriculture. Production of both cereals and traditional export crops, such as tobacco, declined during the decades following independence, with Zambia becoming a net importer of food.

Zambia's economic decline was exacerbated by the introduction of a socialist one-party state in 1972. In keeping with its radical orientation, the UNIP government nationalized hundreds of private enterprises and established new parastatal companies. Within the first 5 years of socialist rule, the state came to control more than 80 percent of the country's industrial and commercial enterprises. At the same time, to maintain political support among the increasingly urban population, the UNIP government subsidized consumer food prices in the cities while maintaining a ceiling on producer prices. As a result, food production became unprofitable for the rural population.

Unchecked growth of the public sector and shrinkage in the size and contribution of the private sector contributed to serious fiscal and current account deficits, fueling inflation. In 1976, the price of copper on the world market collapsed. Aggravating this situation was a steep and sudden rise in the price of imported oil, further weakening the energy-dependent mining sector. The value of Zambia's exports fell dramatically as the value of imports rose. Between 1980 and 1990, per capita income in Zambia declined by more than 30 percent.

To shore up its declining balance of payments position, the Zambian government borrowed heavily, while still maintaining state subsidies on everything from breakfast cereal for the urban poor to luxury limousines for top public officials. For some time, the government resisted structural adjustment programs suggested by the World Bank and the IMF. When the UNIP government sought to implement its own version of structural reforms by scrapping subsidies, the public response was violently and unequivocally opposed to a new policy order.

An attempt to implement an International Monetary Fund (IMF)-sponsored economic recovery program was abandoned in 1987, because of a lack of political support. This led international aid agencies and bilateral donors to suspend assistance to Zambia. As a result of donor pressure, the UNIP government returned to the World Bank/IMF fold and resumed the implementation of adjustment prescriptions in 1989.

The slow pace of recovery and public disillusionment with the monolithic UNIP government succeeded in toppling President Kaunda and his loyalists in less than 3 years. By the time UNIP ceded power to its successors at the end of 1991, Zambia's external debt stood at $7.2 billion, while debt service represented 65 percent of the GDP, one of the highest per capita debt burdens in the world.

1.3 Structure of Government

Zambia has a mixed presidential-parliamentary system. The parliament is fashioned after the Westminster model, while the president is directly elected under a republican constitution. The incumbent MMD government, headed by President Frederick Chiluba, was elected in November 1991 following the repeal of the 1972 constitutional amendment that made Zambia a one-party state.

MMD controls 80 percent of the unicameral parliament in which legislative power is vested. The ruling party controls 125 seats in the 150-member parliament. Election to parliament is by universal suffrage and elections are held every 5 years. The 1991 constitutional amendment establishes a limit of two 5-year terms for the president.

The president rules through a cabinet of 22 ministers, drawn from the ranks of elected members of parliament. The executive head of each ministry is the permanent secretary. Permanent secretaries, such as cabinet ministers, are appointed by the president. They are career civil servants and are not appointed on the basis of their party affiliation.

The Zambian constitution provides for formal separation of powers between the judiciary and other arms of government. Even under the one-party state, which ended in 1991, the courts retained a significant degree of independence compared to most other government institutions. The president appoints the chief justice and other senior judges in consultation with a judicial commission.

Zambia retains a small professional military cadre, which has generally refrained from interfering in the nation's politics since independence. As opposition to the former UNIP one-party government mounted, there were several half-hearted attempts by factions of the military to remove the government from power. However, these attempts were not supported by a majority of enlisted troops. In the post-UNIP era, there are no indications that the military is likely to play any greater role in political affairs than it has in the past.

1.4 Recent Political Developments

After 27 years of quasi-authoritarian UNIP rule, 18 of them as a socialist state, Zambia held multiparty elections in November 1991. MMD won a landslide electoral victory, capturing 81 percent of the parliamentary votes and securing majorities in eight of the nine provinces countrywide. The elections were broadly acknowledged as free and fair, even by the ousted UNIP regime.

The extent of the goodwill accorded the new MMD government by Zambians was demonstrated in the calmness with which Zambians accepted bold policy initiatives by the new President Frederick Chiluba. In December 1991, Chiluba announced the removal of subsidies on super-refined maize meal and the reduction to 10 percent of the subsidy on coarse-milled flour, a staple in the national diet. Unlike three similar attempts by the former regime, which triggered urban riots and calls for the government's ouster, President Chiluba's reforms were met with relative calm and resignation by the Zambian public.

While the legitimacy of the MMD's electoral victory may have, at least at the outset, outweighed opposition to austerity, the euphoria and high expectations that accompanied the victory in 1991 have rapidly faded in the face of the formidable economic obstacles facing the nation. Since the beginning of 1992, Zambia has had to contend with serious labor unrest in various sectors of the economy. Student demonstrations have led to the closure of Zambia's two national universities and several other national training institutions.

In parliament, opposition is weakly institutionalized. Power struggles at the pinnacle of MMD structure have caused some uncertainty with regard to the government's program and slowed down the pace of economic and political reform. Splinter groups have emerged within the two main parties—the Caucus for National Unity (CNU), an MMD faction, and the UNIP Pressure Group (UPG) within the ranks of UNIP. CNU has numerous sympathizers among younger intellectuals, both within and outside parliament, and has continued to press for investigations of corruption among cabinet ministers. Between April and July 1992, three cabinet ministers resigned their ministerial positions under CNU pressure. Both CNU and UPG have their origins in struggles over leadership rather than in significant differences in policy. Each has the potential to split major parties' ranks. In many ways, CNU is regarded as the real opposition in Zambia today.

1.5 International and Regional Relations

Zambia enjoys cordial relations with all of its neighboring countries—Zimbabwe, Mozambique, Malawi, Botswana, Angola, Zaire, and Tanzania. Like most of the other Front-Line States, Zambia's foreign policy has been historically dominated by regional political crises in Zimbabwe (when it was Rhodesia), Namibia, Angola, Mozambique, and South Africa.

From the 1960s through the 1980s, Zambia hosted hundreds of thousands of refugees fleeing regional crises. It also allowed training camps for guerrillas of freedom movements in the region to be established within its borders, rendering Zambia a frequent target of military attacks by South African armed forces. Hostilities in the region have abated in recent years, although uncertainty over prospects for peaceful resolution of the apartheid issue in South Africa preoccupy Zambia's leaders.

Zambia is a member of regional organizations, such as the Southern Africa Development Coordination Conference (SADCC), the Preferential Trade Area Agreement (PTA), and the Organization of African Unity. It is also a member of the EC–Lome Convention and of the United Nations and its various affiliated agencies.

1.6 Human Rights

Since the election of the MMD government in November 1991, Zambians enjoy probably the highest degree of civil freedom of any nation in Africa. Upon taking office, MMD revoked the state of emergency imposed by the UNIP government for most of its 18-year one-party rule. The MMD government has publicly stated its commitment to the protection of fundamental rights and freedoms, the promotion of justice for all, and an independent judiciary.

Zambia has no political prisoners. Independent private newspapers have re-emerged, even though a majority of the existing media still remain under government control.

2. Economic Performance and Outlook

2.1 Summary Table of Major Indicators

	1987	1988	1989	1990	1991	1992[a]	1993[a]
% Real GDP growth	-0.2		-1.0	-0.5	-1.8	2.0	3.0
% Real GDP per capita growth			-4.4	-3.9	-5.7	-1.4	-0.5
% Consumption growth			-10.1	-3.0	-2.8	-4.9	-5.6
Savings as percent of GDP			13.7	16.6	12.0	12.6	14.0
Inflation rate	54.4		158.0	105.0	118.0	45.0	15.0

Source: Government of the Republic of Zambia.
[a] Estimate

2.2 Structure of the Economy

The public services sector dominates the Zambian economy, accounting for 53 percent of the GDP. Mining, manufacturing, and agriculture are the most important nonservice economic activities. Other sectors, such as tourism, have great potential but remain undeveloped.

Mining
Mining is the backbone of Zambian industry and the export economy. While mining accounts for only 10 percent of the country's GDP, it is responsible for more than 90 percent of Zambia's export earnings. Copper, the nation's most important mineral, accounts for more than 80 percent of export earnings. Other important minerals include lead, zinc, and cobalt.

Manufacturing
Despite its important mineral resource, Zambia has yet to develop an extensive, modern manufacturing sector. The sector accounts for 20 percent of the GDP, including companies serving the needs of the mining industry. Zambia's manufacturing sector remains insignificant when compared to that of other countries in the region, such as Kenya and Zimbabwe, which are endowed with fewer natural resources.

Manufacturing in Zambia is import substitution-driven, and it has yet to develop an export capacity. Principal manufacturing activities include textiles, pup and paper products, food and beverages, and tobacco.

Agriculture
While about 50 percent of the Zambian labor force is engaged in agriculture, this sector accounts for only 17 percent of the country's GDP. As with manufacturing, Zambian

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agriculture plays little or no role in the export trade. Tobacco is the only major cash crop. Some small quantities of cured tobacco leaf are exported. Other crops traded domestically include soybeans, cotton, and oilseeds (sunflower).

Tourism
Zambia has an abundance of wild game and scenic features, including navigable rivers, large natural and human-made lakes, and world-renowned waterfalls. The potential for tourism is largely unexploited because of the country's poor infrastructure, ineffective marketing (both at home and abroad), and inadequate institutional and administrative support for the tourism sector.

2.3 Structural Performance

The Zambian economy has been in decline for over a decade, with growing foreign debt and reduction in export earnings. Real GDP was $4.7 billion in 1990, only marginally higher than that of 1980. Population growth in excess of 3 percent per year has contributed to a 25-percent decline in per capita GDP over the past 10 years. Economic performance has been further depressed by high inflation, which rose from 54 percent in 1987 to more than 100 percent per year through 1990, while declining once again in 1991.

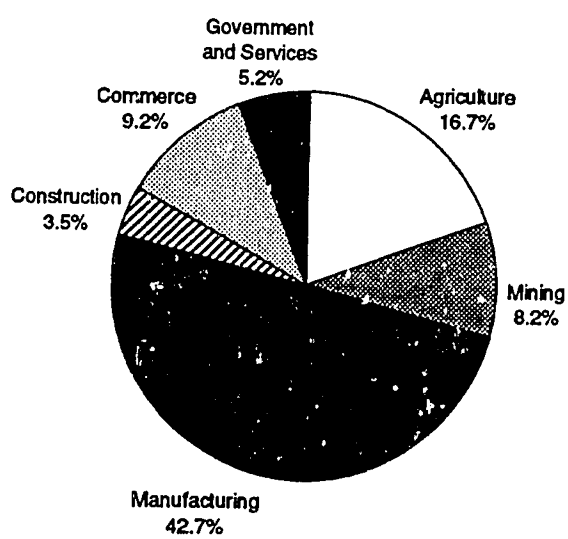
Sector Performance
Zambia's mining sector grew by only 2.7 percent during the past decade, well below official targets of 5 percent growth per year. While world market prices for copper improved slightly during the later part of the 1980s, Zambian output decreased by 4 percent, mainly as a result of higher production costs, a decline in ore grade, and operational problems. The largest drop in output, 8.3 percent, was recorded in 1991—a year of significant political and economic turmoil and intensified global competition.

The manufacturing industry performed poorly in 1991, with sectoral output declining by an estimated 9.3 percent. The sectoral share of GDP also declined, from 22.3 percent in 1988 to 19.8 percent in 1991.

Electricity output in 1991 rose by 3.8 percent, while most other sectors such as construction, wholesale and retail trade, and transport, storage, and communications recorded negative growth.

Agricultural development in Zambia has been inhibited by excessive government intervention in both pricing and marketing. Nonetheless, output from the sector rose by 5.2 percent in 1991 compared to 1990, and agriculture's nominal share of the GDP rose from 17.5 percent to 18.7 percent during the same period. However, real agricultural output in 1991 was 2.7 percent lower than in 1988, reflecting regional drought conditions, which have continued into the present.

Sector Origins of Gross Domestic Product



Spending and Savings
Zambia's domestic savings as a percentage of the GDP stagnated throughout most of the 1980s at around 13 percent. Nearly all savings were restricted to the small but dynamic nongovernment sector, which averaged 15.5 percent for most of the decade. Public savings showed a negative trend throughout that decade, posting their first positive gain of 1.2 percent in 1991.

Zambia's low level of savings is mostly because of borrowing from domestic financial institutions by the government to finance the overly large public sector. Excessive official demand for credit resulted in negative real interest rates on savings and interest rates on credit of more than 50 percent.

2.4 Economic Prospects, 1992–1997

The future of the Zambian economy will depend in large measure on the success of policy reforms being implemented by the newly elected government. These include efforts to restructure the public sector through privatization, reduction of Zambia's external indebtedness, and diversification of the economy. Reducing the nation's reliance on copper as the sole foreign exchange earner will be critical to success.

The rebirth of political pluralism and the launching of the current economic liberalization program have earned Zambia renewed confidence among international development agencies. Despite serious hardship at home, Zambians are today much more optimistic about their economic future than at any other time since independence. To sustain popular support for reform, however, the government must produce short-term economic gains in such areas as reducing unemployment and lowering interest rates on credit.

Donors and foreign investors are responding positively to Zambia's efforts to restructure its economy with increases in financial support and new investment. During a period of adjustment, which will require medium- to long-term policy reform, the country's economy will remain vulnerable to global competition in copper markets. Although copper prices have been high in recent years, a downturn in demand would set back Zambia's economic recovery efforts. At the same time, however, Zambia is well positioned to profit from improved regional trade resulting from the resolution of long-standing conflicts in southern Africa.

Unemployment
The general decline in Zambia's economic performance and its social consequences since the mid-1970s were nowhere more evident that in the limited growth of new employment. Rapid growth of the labor force resulting from high population growth of 3.6 percent per year far outstripped the ability of Zambian enterprises to create new jobs.

In the 21-year period between 1970 and 1991, the Zambian economy generated only 100,000 new jobs in the formal employment sector, a rate of less than 5,000 jobs a year. In the same period, population grew by more than 4 million people. Current estimates suggest the need to generate at least 20,000 jobs annually for the next 10 years to bring unemployment in Zambia under control. However, during 1991, formal sector employment declined by 3.3 percent.

Inflation

Inflation in Zambia remained high in 1991, dropping to 118 percent from the annual peak of 158 percent recorded in 1989. The principal factors driving inflation are high money supply and excessive borrowing by the government from the local banking system. The MMD government hopes to drive inflation down to 15 percent by the end of 1993 by reducing or eliminating domestic financing of official debt and reducing demands on the budget by unprofitable parastatal industries and food subsidies.

Privatization

The current Zambian government has committed itself to privatizing commercial and industrial enterprises that presently account for more than 80 percent of the country's economic activity. In July 1992, the legislature approved a Privatization Act that provides a legal framework for government divestiture and sets out the modalities for privatizing or liquidating at least 130 state enterprises over the next 4 to 5 years.

Although privatization forms the main part of Zambia's IMF-sponsored economic reform program, these reforms are a source of volatile public debate. While privatization efforts are likely to generate new employment and economic growth in certain industries, a large number of parastatal companies are not attractive candidates for private investment. Liquidation of those companies raises the prospect of increased unemployment and a loss of support for the regime among affected workers.

External Debt

The external debt of $7.2 billion that the MMD government inherited from its predecessors translates to a per capita indebtedness of $1,000, one of the most onerous debt burdens in the world. Until recent rescheduling by Zambia's creditors, the nation's debt service ratio approached 70 percent.

Economic reform efforts of the MMD government are endorsed by multilateral financial institutions. The IMF, the World Bank, and bilateral donors are providing balance of payments assistance and technical aid to ease the nation's debt burden during the period of structural adjustment of the economy. Zambia's creditors and donor institutions seem committed to constructive action that will reward diligence in reform with strategically targeted resources and rescheduling of debt service.

Administrative Efficiency

The creation of an enabling environment is crucial to Zambia's ability to attract the level of foreign and domestic investment necessary to restore growth to the economy. Beyond privatization, the government will need to provide a legislative framework complemented by incentives to promote entrepreneurship and the growth of the private sector. A major challenge will be that of training Zambian entrepreneurs and private business executives in managerial skills long neglected in the statist environment of the past.

Diversification of Exports

The government has declared a major effort to reduce Zambia's excessive dependence on copper exports. The diversification of exports will be a long-term process, and the growth of nontraditional exports is unlikely to be rapid enough to rival copper earnings in this decade.

In addition to the potential for expanding its manufacturing base, Zambia's greatest and most immediate hope for increasing exports lies in the rehabilitation of the long-neglected agricultural sector. The potential for growth in agriculture is enormous, with only about 5 percent of the country's 24 million hectares of arable land under cultivation. Both technical know-how and market development skills are extremely limited in this sector.

2.5 Implications for American Investors

Zambia offers tremendous opportunities for foreign investors at the present time. The government's privatization program is expected to release onto the market a large number of commercial and industrial enterprises for sale, a number of which should be of interest to foreign investors. Opportunities exist not only for export to the major industrial nations of Asia, Europe, and North America, but also to other countries in southern Africa (including South Africa, Zimbabwe, and Malawi). Prospects for investment in agriculture, tourism, and gemstone mining are especially promising.

Labor costs in Zambia are highly competitive, especially because of the high unemployment rate. Popular pressure on the government to reduce unemployment will ensure that policy and administrative support remain strong for labor-intensive ventures and for privatized parastatal companies.

3. Sectoral Analysis of the Economy

3.1 Agriculture

Agriculture has long served as the principal economic activity for rural Zambians. It accounts for approximately 20 percent of the GDP and employs nearly 70 percent of the adult population. Zambia is currently faced with a major drought that affects nearly all of eastern and southern Africa and which has triggered a short-lived decline in agricultural production. Nonetheless, this sector of the economy is attracting considerable investor interest, particularly from entrepreneurs from South Africa and Zimbabwe. While the emergence of the mining sector in recent decades spurred migration from rural areas to industrial centers and major cities, smallholder subsistence agriculture remains the key to survival for the mass of rural Zambians.

Following independence, the government invested heavily in the development of agriculture, more than doubling allocations to agriculture in the national budget between 1970 and 1980. Shortages of skilled labor, a poor rural infrastructure, and migration to urban areas have been the principal impediments to success. Further complicating efforts to develop agricultural production were the government's imposition of rigid price controls at the farmgate and in consumer markets and the channeling of marketing activities through centrally managed commodities boards. Mismanagement and inefficiency led to chronic delays in payments to farmers and the leakage of public funds from marketing authorities. The MMD government, elected in 1991, has attacked these problems head-on, and liberalization of agricultural markets was among the government's highest priorities for reform.

Zambia's leaders recognize that diversification and further development of agriculture may be the key to weaning the economy away from its excessive dependence on mining. The government is therefore attempting to liberalize agricultural production and restore equilibrium to that sector.

Zambia's principal crops include corn (the dietary staple in both rural and urban areas), millet, sorghum, and cassava. During the 1980's, an ever-larger number of farmers began to produce wheat, soybeans, and rice. Rice, however, does not seem to be competitive with less expensive imports from Asia. Among the principal cash crops cultivated in Zambia are tobacco, cotton, sugar cane, sunflower, peanuts, and small quantities of high-grade Arabica coffee. Fruits and vegetables are also produced on a commercial level.

Zambia is also a large producer of livestock, principally for local consumption. Annual consumer demand for meat outstrips production, leading Zambia to import cattle, sheep, goats, and poultry from neighboring countries.

Approximately one-half of all marketed agricultural commodities in Zambia are produced by several hundred commercial farming estates that are owned or operated by expatriates. Commercial farming was particularly hard-hit by Zambia's economic crisis during the 1980s, with shortages of foreign exchange and high inflation creating bottlenecks in the supply of imported agricultural machinery and spare parts. Currency reform and the introduction of the two-tier foreign exchange system in recent years have provided the badly needed stimulus for this sector, creating an effective bonus of some 60 percent over the official exchange rate for agricultural exporters. The recently enacted suppression of price controls on nearly all commodities is providing further incentives for agricultural producers, allowing them to enter competitive export markets where quality premiums are available.

3.2 Manufacturing

Over the course of the past several decades, Zambia's leaders sought to create a manufacturing sector capable of substituting for costly imports. Instead, Zambian manufacturing remained heavily dependent on imported machinery and materials in a market where government subsidies rewarded shoddy output and poor management. Policy reforms begun in 1991, including a new investment law and reform of the trade regime, are transforming the manufacturing sector in the hope of improving the nation's export performance as well as the quality and diversity of domestically produced goods.

In the years immediately following independence, Zambian manufacturing grew rapidly. Value-added in manufacturing nearly quadrupled during the 1960s. Growth slowed throughout the early 1970s as the government acquired an ever-larger number of private industries administered by the Industrial Development Corporation of Zambia (INDECO). Political patronage, rather than talent or expertise, governed the appointment of technical and management staff to many of the parastatals, leading to a rapid decline of value-added by manufacturing throughout the 1980s. In a number of instances, however, INDECO entered into joint ventures with foreign partners for the establishment of new enterprises in vehicle assembly, chemical fertilizer production, and glass, battery, and brick manufacturing. INDECO remains the nominal owner-manager of 75 percent of Zambian manufacturing output, although it faces major reductions in the number of its subsidiaries as a result of the MMD government's privatization program.

Foreign currency shortages and government controls during the last decade have severely handicapped this sector of the economy. Machinery, spare parts, and materials shortages became chronic, leading to a reduction in output and a failure of existing industries to upgrade to more efficient production methods. Existing plants and equipment are often superannuated and poorly maintained.

In spite of problems in the economy, a growing number of Zambian industries have demonstrated both resiliency and significant potential. A number of Japanese, French, and British vehicle manufacturers have assembly plants in Zambia and hope to begin exporting to other nations in southern Africa, while Nitrogen Chemicals of Zambia (NCZ) created the largest nonmining industrial plant in the nation to produce sulphuric acid and fertilizers.

Prospects for the future of the manufacturing sector remain wholly dependent on the rigor of economic reforms. Limited pricing liberalization provided a boost to the sector for a brief period in the 1980s. Nonetheless, depreciation of Zambia's currency, import substitution measures for raw materials, changes from f.o.b. to c.i.f. prices as the base for import duty calculations, and high inflation more than offset any gains.

The MMD government is seeking to transform Zambia's manufacturing sector with a range of policy reforms, including the suppression of regulations that formerly protected even inefficient industries from foreign and domestic competition. The liquidation of unprofitable state enterprises and the privatization of those that are viable will create a market for new and efficient technology. Veteran managers and technicians who have weathered the difficulties of the recent past represent a pool of resourceful and ambitious talent that is anxious to take advantages of new opportunities for profit and growth.

3.3 Mining and Energy

Mining is the backbone of Zambia's modern industrial sector, making the nation the world's second-largest exporter of copper. While the sector generates only 8 percent of the GDP, it generates more than 90 percent of export revenues. Other significant mining output includes cobalt (a copper by-product), zinc, lead, amethyst, emeralds, and relatively small quantities of coal and limestone. Prospecting efforts are also currently under way for gold, diamonds, uranium, and petroleum (although previous efforts to identify petroleum reserves have been inconclusive).

Zambia's mining industry was developed early in this century by two British-led ventures, Zambian Anglo American (later renamed Nchanga Consolidated Copper Mines) and Roan Selection Trust (later renamed Roan Consolidated Mines). Following independence, the management of all copper production passed through a series of government reorganizations, eventually falling under the control of Zambia Consolidated Copper Mines Limited (ZCCM), a monolithic state enterprise that, over time, has created numerous subsidiaries to service the industry.

Zambian copper production did not come on-line until 1930 and seems to have reached its apex in 1969, with output of some 747,500 metric tons. Output has declined more than 40 percent since that time, principally because of the depletion of reserves. The industry rebounded somewhat in 1990, as reprocessing facilities were established to extract copper from waste and tailings. Estimated reserves are expected to last for a period of 20 more years at current levels of production. Nonetheless, current operations fall well below the installed mining, smelting, and refining capacity of 800,000 tons per year.

ZCCM has benefitted extensively from the currency devaluations of the 1980s; however, it has had difficulty competing with government institutions for credit that is necessary to finance equipment maintenance and upgrading, export levies, and diversified operations. Zambian copper is exported in refined, but unwrought, form.

Mining activity outside of ZCCM operations is generally of a small-scale nature, and the government is actively promoting foreign investment in several new, large-scale operations. Of particular interest are opportunities for the mining of emeralds and semiprecious stones. This sector is currently poorly organized, with the majority of exports taking place on the black market.

Zambia became self-sufficient in electricity production in the mid-1970s and, until recently, exported a significant volume of output to Zaire and Zimbabwe. Domestic energy production is largely derived from hydro-electrical output from the Kafue Gorge. The majority of electrical power produced is utilized by the mining, smelting, and refining operations of ZCCM.

Although Zambia has no proven viable petroleum reserves, extensive prospecting operations have taken place along the Zambia-Zimbabwe border, beginning in 1990.

3.4 Tourism

Zambia's potential for tourism is significant, but largely underdeveloped. The country's principal attractions are Victoria Falls, along the Zimbabwe-Zambia border, and an extensive national park system with remote wilderness and abundant wildlife. An American-owned and -operated company in Zambia conducts rafting expeditions down the Zambezi River below Victoria Falls, while British-, Zimbabwean-, and Kenyan-owned firms operate safari expeditions elsewhere in the country.

Tourism infrastructure is, however, poorly developed. Even Lusaka, the nation's capital, has a shortage of international-class hotel rooms. Although the government has made tourism a high priority for development, the country will require foreign investment and expertise if it is to develop a competitive hospitality industry.

4. The Role of the State in the Economy

Zambia's new regime has taken on the task of restructuring an economy long-dominated by government. The greatest weakness of the economy is the legacy of public sector dominance during the postindependence era. The government owns or controls, directly or indirectly, most industrial and commercial enterprises in all sectors. Until the democratic revolution of 1991, the government not only provided social services and infrastructure, but also intervened in nearly every economic activity through marketing, administrative, and advisory boards.

The current MMD government is committed to liberalizing the economy by dismantling or privatizing the plethora of public sector institutions it has inherited. State controls will be removed from the marketplace as well. To do so, however, will require not only legal and administrative measures but also a recasting of public attitudes regarding the roles of government and private business.

4.1 Strength and Role of the Public Sector

Zambia has a mixed economy, although parastatal firms account for 80 percent of investments in mining, manufacturing, and agriculture. The low return from public investment is, however, demonstrated by the fact that parastatals contribute only 50 percent of Zambia's GDP.

Given the strategic importance of copper as the country's sole export commodity, nearly all mining enterprises in Zambia are government owned. As a result, 90 percent of Zambia's foreign exchange earnings is produced by the parastatal sector of the economy. The vast majority of the parastatal firms fall under one state holding company—the Zambia Industrial and Mining Corporation Limited (ZIMCO). The most important ZIMCO subsidiary is Zambia Consolidated Copper Mines Limited (ZCCM), 60 percent of which is owned by ZIMCO.

In the energy sector, ZIMCO controls the national oil pipeline through Tazama Pipelines and electricity generation and supply through the Zambia Electricity Supply Corporation. In transport and communications, ZIMCO owns Zambia Railways, Zambia Airways, Contract Haulage (the nation's largest fleet of road transport vehicles), United Bus Company, and the Post and Telecommunication Corporation.

ZIMCO's wholly owned subsidiary, the Industrial Development Corporation (INDECO), owns all or most of more than 40 companies, representing more than 60 percent of Zambia's manufacturing entities. The holding company also owns Zambia's only insurance company, most hotels, agricultural and real estate ventures, a major bank, and a major chain of wholesale and retail ventures.

Despite the government's enormous investment in the economy, parastatal enterprises have yielded only marginal dividends or, more often, chronic losses. The unprofitability of the parastatal sector results from a complex interplay of factors, including low levels of accountability, corruption, mismanagement, political patronage, and excessive reliance on operating subsidies.

In April 1992, the MMD government introduced a new policy requiring parastatal corporations to pay minimal annual dividends equal to 10 percent of the inflation-adjusted value of government equity in their capital. The government also said it would no longer guarantee commercial credit for parastatals, the sole exception being public utilities whose operations are critical for the economy as a whole.

4.2 Strength and Role of the Private Sector

Entrepreneurial traditions run strong in traditional and modern Zambian society. The survival of small and medium-sized private businesses during several decades of heavy-handed government is a testament to the ingenuity and steadfastness of the Zambian entrepreneur. Zambian entrepreneurs who for many years took refuge in the informal sector are returning to the formal sector, where they are acquiring considerable influence. The nation's Indian community has long been prominent as a source of capital and entrepreneurial know-how. Indian businessmen are committed to Zambia in spite of actions by past governments to appropriate their businesses, and they have been quick to seize opportunities that are emerging as a result of liberalization.

At the same time, private foreign investment in Zambia also managed to thrive during the past 30 years. American, British, and other foreign-owned firms have been successful in banking, agriculture, manufacturing, and other activities, although in the past this generally required that they take on the state as a silent partner in their investments.

The principal area of the economy in which the private sector has not played a role is mining, where the parastatal ZIMCO and its subsidiary ZCCM are dominant. Private sector operators in mining are generally small-scale prospectors and traders of precious and semi-precious stones.

4.3 Implications for American Investors

The MMD government is committed to reducing the presence and weight of government intervention in commerce and industry. Both internal pressures and commitments to multilateral lenders ensure that privatization will continue at a steady rate, creating opportunities for foreign and domestic investors alike. The government has already proposed potentially lucrative, large-scale mining projects as targets for foreign investment.

Deregulation of the economy will also move at a rapid pace, allowing efficiently managed companies to compete favorably in export markets. The elimination of subsidies to industry is likely to be counterbalanced by concessional treatment for newly privatized companies, as well as new ventures.

5. Investment Climate

5.1 Background

Following several decades of difficult lessons learned, the government of Zambia has acknowledged that it has neither the technical capability nor the resources needed for sustained development of the economy. The recently elected MMD government has moved quickly to recast Zambia as a nation that is open to foreign investment and supportive of economic growth. The government's approach is supported by foreign donors and multilateral financial institutions who are conditioning future support to Zambia's adherence to its commitments in this regard.

Foreign companies have operated profitably in Zambia since the colonial period, attracted at first by the region's extensive copper reserves. For many years, the growth of copper mining served as an engine of economic development, spinning off industries to service the needs of mining and the considerable work force it employed. Abundant natural resources and inexpensive labor attracted foreign investment throughout the economy, including numerous entrepreneurial ventures owned or managed by immigrants from Britain's former south Asian colonies.

The rise of a quasi-socialist regime following independence created an environment that was less than hospitable for all but the largest or most profitable foreign-owned enterprises. During the 1960s and 1970s, many privately owned businesses were nationalized. As late as 1988, the Kaunda government seized nearly 200 retail businesses owned by members of the Indo-Pakistani community, under the pretense of a newly enacted law aimed at controlling black market activity.

Zambians have since discredited the statist policies of the past and have chosen to elect a new government that is decidedly liberal in its approach to markets and pro-business in its hopes for the future.

5.2 Experience of Private Investors to Date

Foreign investors in Zambia have generally enjoyed a privileged status, operating as partners with parastatal holding companies in nominal joint ventures. Among the principal foreign businesses present in Zambia are the British-based Lonrho, Tate & Lyle and Anglo-American conglomerates; U.S.-owned Johnson & Johnson, Citibank, and the Phelps-Dodge Corporation; and India's Tata Industries.

Commercial farming enterprises that are owned or operated by expatriates have overcome difficulties related to the high inflation of the 1980s. Marketed production increased steadily in recent years for tobacco, soybeans, oilseeds, rice, and sugar cane (although agribusiness currently faces the second year of a drought that is generalized throughout eastern and southern Africa). Production gains have been stimulated by a lifting of price controls for most commodities, donor financing, and private investments in the sector.

Vehicle assembly operations have been a bright spot in the otherwise stagnant manufacturing sector, led by firms that are partially owned and managed by British parent companies. Rover Zambia has expanded its operations in Ndola under joint-manufacturing agreements with the truck divisions of Toyota, Mitsubishi, and Volkswagen, while another partly British-owned company, Livingstone Motor Assemblers, produces Mazda, Peugeot, and Fiat automobiles. Leyland Zambia has also built a new plant in Lusaka to assemble 2,000 commercial vehicles each year.

Principal targets for small- and medium-sized foreign investment have been hotel and tourism development, professional services, and management information systems. A number of American firms have entered these markets and stand to profit from emerging opportunities under Zambia's economic reform program.

5.3 Investment Outlook

At first appearance, Zambia does not seem to be the most hospitable environment for new investors in southern Africa. However, the recently elected MMD government represents a revolution in the nation's political system as well as in the environment for foreign investment. Although the legacy of the past may take years to overcome, the government's commitment to a liberal economy is deep-seated and immediate. During its brief tenure to date, the government has undertaken numerous initiatives aimed at enhancing the environment for private business, moving swiftly to dismantle regulatory and pricing barriers that were the hallmark of the previous regime and liberalizing investment laws to bolster incentives.

Prospects for new investment in Zambia are destined to improve as the government attacks the root causes of inflation and foreign exchange shortages. Proposed reforms of the banking system, the creation of a stock market and venture capital funds, and privatization of parastatal companies are based on the assumption that the nation can attract significant foreign investment and technology.

5.4 Investment Opportunities

The list of investment opportunities in Zambia is growing regularly, as the government selects candidates for privatization and lowers regulatory and other barriers to foreign business.

Mining
In the mining sector, the government is poised to privatize a significant proportion of capital in the ZCCM copper and cobalt-mining conglomerate and expects to fully privatize a number of its service and marketing subsidiaries. New opportunities have also been identified for further prospecting and production at the Lumwana gold and uranium deposits, as well as for the processing and marketing of nickel, manganese, marble, and industrial minerals.

Gemstone mining, production, cutting, and polishing and jewelry manufacturing offer numerous opportunities for investment and certainly will enjoy strong government support; the government is seeking to identify ways in which the economy can recapture the value of emeralds, amethysts, and other gemstones currently diverted to the black market. Targets for privatization include the 50-percent government-owned KAGEM emerald mines as well as Zambia Emerald Industries' cutting and polishing operations.

Agriculture
Prime candidates for privatization include Zambia Agricultural Development Limited and all state-owned farms and ranches. Opportunities for new ventures also exist for farming, ranching, and flour milling along the Tazara railway corridor, as well as poultry and fish farming operations. (Initial experiments for Mississippi catfish production have yielded encouraging results in Zambia.)

Hotels and Tourism
The National Hotels Development Corporation, as owner-operator of Zambia's Intercontinental, Pamodzi, and other hotels, will be privatized in whole or in part. The government is also exploring the possibility of leasing individual national parks to private operators. Foreign bidders will be encouraged to invest in the upgrading of tourism infrastructure at Victoria Falls and Livingstone Falls. Specialist tour operators will find fertile and unexplored ground for new ventures in many areas of Zambia.

Financial Institutions and Services
The Zambia National Commercial Bank and the Zambia National Insurance Corporation are slated for privatization. The government also hopes to attract investors who will establish one or more venture capital companies, local and regional insurance operations, pension fund management companies, and bond and investment banks.

Manufacturing and Industry
A large slate of manufacturing companies will be privatized during the next 2 years, including Zambia Cement, Zambia Breweries, National Milling, and subsidiaries of the ZCCM mining conglomerate. Niches for which there seems to be a demand include textile manufacturing, plate glass works for regional and domestic sales, ethanol manufacturing, assembly of security and anti-theft technology for regional export, assembly of data processing, telecommunications, and reprographic machinery, press and printing manufacturing, and assembly, microbrewery, and textile production.

Transport and Services
Among the principal candidates for privatization is Zambia Airways, the ZESCO electricity utility, and the Post and Telecommunications Corporation. Prospects also appear for investment in private hospitals and clinics, road and air cargo operations, and professional services.

Trade
Liberalization of commodities trading, following suppression or restriction of the authority of the National Agricultural Marketing Board, will create opportunities for new agribusinesses. Privatization of wholesale/retail operations owned by the INDECO holding company may also involve foreign investors. As liberalization of the economy takes hold, numerous other niches may be expected to appear for trade in goods to service the needs of emerging business in all sectors of the economy.

5.5 Implications for American Investors

Foreign investors who are prepared to exploit new openings in the Zambian economy can benefit handsomely. Prospects for the Zambian economy suggest that medium- to long-term commitments may be necessary for investors to realize profits in certain industries. Pioneering ventures in tourism and hotel development, new industries, and financial and professional services are more likely to produce short-term profits.

New investors in Zambia should take the time to study the local political and economic environment, as there are few lessons to be derived from Zambia's experiment with statist economic management. Many otherwise viable enterprises failed to realize their potential because of factors beyond their control. If Zambia's new government adheres to its commitments, the rules by which private industry operates will be dramatically—and favorably—altered during the next several years.

6. Regulation of Foreign Investment

Zambia's political revolution of 1991 is nowhere more evident than in the government's outspoken support for foreign investment. Among the new regime's first acts was the promulgation of a new investment code and privatization program, which recast the environment for foreign investment in terms that encourage a degree of private sector autonomy that has been unknown in Zambia for nearly two decades. Foreign investors will not only find that barriers to investment are lowered in Zambia, but that the investment environment is growing ever more conducive to efficient and profitable operations.

6.1 Government Policy

While many of Zambia's new economic reforms have been born of necessity, the Investment Act of 1991 represents a suspension of government cynicism with regard to private economic activity. While the Investment Act of 1986 accorded the government wide-ranging powers to regulate new investment, the newly promulgated Investment Act of 1991 defines policy as a set of incentives and guarantees that aim to attract private investors and ensure the security of their capital. Government policy was designed to compete with the most liberal terms and conditions offered by other nations in the region.

Reflecting both its pro-investment philosophy and the competitive environment for foreign investment throughout eastern and southern Africa, Zambia's government is currently reviewing the Investment Act of 1991 to strengthen the entitlements and tax incentives that it offers. It is of paramount importance that Zambia's Investment Act makes no distinction between expatriate and Zambian investors, while foreign investment is considered to be any investment that originates from abroad, whether it belongs to Zambian nationals or expatriates. The act is broad in scope and forward-looking; it includes both privatized firms and new ventures under its umbrella of guarantees and incentives.

As a means of facilitating new investment in Zambia, the government recently created a national Investment Centre, which serves as a clearinghouse for all formalities required for the establishment of new enterprises. New businesses in agriculture, industry, transport, and tourism are required to apply for a license from the Investment Centre. Apart from reviewing all applications for investment and issuing an investment license, the centre serves as a one-stop facility where the investor can apply for all other necessary permits, certificates, licenses, and clearance documents.

Investment Centre staff serve as advocates of new investment and provide liaison between businessmen and relevant government ministries, agencies, and local authorities. It is governed by legal authorities and mandates that provide for rapid turnaround on the granting of investment licenses; when legal deadlines are not met, approvals are awarded by default.

6.2 The Government's Investment Priorities

The Zambian government's investment priorities are not, as yet, well defined, although it is anxiously seeking to recruit foreign capital for the privatization of parastatal companies. The Investment Act of 1991 makes specific mention of five sectors in which foreign investment is encouraged, including:

- Exporters of goods and services other than copper and several other base metals
- Agriculture and agrobusiness
- Tourism
- Import-substituting manufacturing that generates net savings of foreign exchange
- Rural and small businesses

Because of the strategic importance of the mining sector to the national economy, Zambian authorities have chosen for the time being to retain the Mines and Minerals Act of 1977. While the government hopes to encourage new investment in that sector as well, it is currently in the process of drafting new licensing procedures, incentives, and taxation rules. These will be designed to maximize returns to the economy during a period when the limit to existing copper deposits are within sight. The government will seek to reward foreign investors, while ensuring that the minerals are exploited for their full economic value using the most technically efficient means.

6.3 Incentives for Investors

Under the Investment Act of 1991, all qualifying investors in Zambia are entitled to the following incentives:

- Exemption from customs duties and sales tax on all machinery, equipment, and spare parts required for the establishment, rehabilitation, or expansion of an enterprise
- Exemption from tax on dividends and royalties for a period of 7 years from the date of commencement of business
- Exemption from the payment of all corporate income tax for a period of 3 years from the start of the business and exemption from 75 percent of corporate income tax for the following 2 years
- Exemption from the payment of selective employment tax on expatriate labor for a period of 7 years
- The retaining by enterprises of a portion of their foreign exchange earnings for a period of at least 6 months (Entrepreneurs can use this foreign exchange to buy inputs and finance remittances or may choose to sell it to third parties at an agreed-on rate.)
- The rate at which foreign exchange earnings can be retained as follows:
  - 75 percent for the first 3 years
  - 60 percent for the following 2 years
  - 50 percent for the remaining period of validity of the investment license
- Withholding tax on dividends reduced from 20 percent to 15 percent

- Acceleration of the depreciation of plants and machinery, including commercial vehicles, to 4 years, with depreciation of other vehicles over 5 years (This compares with the previous system, which depreciated plants, machinery, and vehicles over 5 years or more).

The Investment Act of 1991 also contains provisions allowing for the following remittances abroad:

- Up to 50 percent of net income
- The principal and interest on foreign loans
- Fees and royalties in respect of any agreement for the transfer of technology, expertise, and know-how
- The net proceeds of sale or liquidation of the enterprise up to the combined value of the original foreign investment and reinvested earnings
- The proceeds of any arbitration award

Agricultural enterprises enjoy additional benefits, including:

- Producers of livestock, fisheries, and a range of crops, including corn, wheat, barley, and soybeans, qualify for special foreign exchange incentives to be determined by the Investment Centre and the Bank of Zambia.
- Growers of certain specialized crops and fruits can deduct 10 percent of their gross investments in local currency from their income in the year the investment was made.

Incentives for tourism enterprises include:

- Priority in the allotment of land for the construction of hotels, camps, and other related facilities
- Priority in the provision of water, power, communications, and other required facilities

Incentives for small or village enterprises include:

- Exemption from tax for the first 5 years of operations for a small business located in a rural area
- Exemption from payment on rates on factory premises for the first 5 years

Additional incentives to which the government has committed itself, but that it has not yet fully defined include:

- Creation of an Export Revolving Fund, which will ensure exporters additional access to foreign exchange
- A 10-percent Development Allowance for growers of specialized crops
- Establishment of a Research and Development Fund for use by import-substituting enterprises
- The establishment of "Economic Development and Export Free Zones," which would cover a geographical area or a specific enterprise

6.4 Limitations on Foreign Investment

As part of its reform program, the government of Zambia has suppressed limitations on foreign investment that served, in the past, to protect local industry from competition. The Companies Act, which barred free entry into existing markets, has been repealed. Included in this provision is an open door for foreign airlines wishing to operate in Zambia and the suppression of the government monopoly in commercial air transport. Government monopolies in insurance, real estate, and construction financing will also be eliminated through the privatization of existing monopolies and an open door for new investment. The principal restrictions on foreign investment at the present time are operational and mandated by general conditions and limitations in the economy.

6.5 Acquisition of Real Estate

Regulations governing the acquisition of real property vary slightly from sector to sector. As a general guideline, prospective investors must remember that Zambia has no freehold on its land. Leases are normally issued for periods up to 99 years for either expatriates or Zambian nationals.

Agricultural sector investments may obtain access to land of three types. Reserve and trust lands require the approval of the local chief, who grants approval through local district councils. Upon approval, district authorities authorize a survey and demarcation of lands through the Ministry of Agriculture. The Commissioner of Lands at the Ministry of Lands acts as a title-deed issuer upon receipt of survey documents. Land falling within the boundaries of district councils requires application to local authorities, which grant approvals through the Commissioner of Lands. Access to state lands is granted directly following application to the Commissioner of Lands.

Tourism sector real estate acquisition for hotels requires approval from local district authorities and the issuance of a letter of approval to the investor from the Zambia National Tourist Board to begin construction or development activities. All establishments in the National Parks and Game Management Areas must be endorsed by the Director of the National Parks and Wildlife Department. For all other enterprises, the acquisition of land is requested through appropriate authorities relative to its status: state land, land controlled by district authorities, park/reserve land, or land controlled by port or zone authorities.

A lease or offer of lease is required before an application for a permission to build can be made. The construction of buildings requires planning permission obtained from a local planning authority. Planning permissions ensure that the building, once constructed, cannot be demolished without compensation. A planning permission is a required document for obtaining mortgage financing, and it facilitates any subsequent sale of property.

6.6 Establishment of a Business

The Investment Act of 1991 has drastically simplified the procedures necessary to establish a business in Zambia. The Companies Act and the Business Names Act contain no provision that restricts entry into any market of the national economy, but they delineate the procedures necessary for incorporation of a limited liability company. Procedures include:

- Written notification of a proposed corporate name to the Registrar of Companies
- Submission of a charter or constitution of the company, known as a Memorandum of Association, along with a list of corporate officers and principals and the mailing address of the company
- Payment of a registration fee fixed at 5 percent of the company's authorized capital

Companies registered under the Companies Act must submit annual reports to the Registrar of Companies.

New enterprises in Zambia must also obtain an Investment license. Investment licenses require minimal statements of identity and intent and declarations of those incentives for which applicants expect to qualify. The license has an unlimited period of validity. Aside from adherence to the general laws of Zambian society, the only additional obligations incumbent on an investor is an announcement to the Investment Centre, in writing, of the date of commencement of his or her business, an agreement to maintain proper financial and accounting records, and an agreement to permit Investment Centre personnel or their appointed agents access to the records of the company. Minor additional registrations are necessary for enterprises in the tourism, manufacturing, and transport sectors.

6.7 Local Content Requirements

During the 1970s and 1980s, the government actively sought to maximize local content in industrial production. At present, however, local content requirements are enforced solely through import and foreign currency exchange controls based on the availability of foreign exchange. A lack of foreign exchange has long been an impediment in the conduct of business in Zambia, necessitating the development of local businesses to service the raw material needs of Zambian industry.

6.8 Regulation of Competition

Within the context of its structural reform program, the MMD government is deregulating the conduct of business to create an environment in which competition spurs growth and greater efficiency. The suppression of state monopolies and privatization of privileged competitors will lower competitive barriers in many sectors of the economy, while revisions of laws governing trade will create new openings for foreign participation in retail operations.

Deregulation in other areas—including reform of laws governing the ownership of real property, transport, and mining operations—is also badly needed. However, the government will require time to build the necessary consensus to enact legislation concerning such strategic—and formerly privileged—sectors of the economy.

6.9 Investment Protection

Guarantees provided by the Zambian government include assurances that property rights will be respected. The government is prohibited from expropriation activity except where

Parliament has passed legislation relating to the compulsory acquisition of that specific property. In the event of expropriation, the law requires that full compensation be made at the market value of the property convertible at the prevailing exchange rate in the currency in which the investment was originally made. Zambia is a member of the Multilateral Investment Guarantee Agency (MIGA) and is obliged to abide by its conditions for membership.

Zambian law also guarantees that if an investor meets the conditions for an investment license, that license will be granted automatically. All applications submitted to the national Investment Centre must be acted on within 30 days of submission. A license will be granted automatically if no action has been taken during that period.

An additional feature of the Investment Act is a guarantee that the original rights, guarantees, and incentives that prevailed at the time when an investment license is awarded will apply for a period of 7 years, even if the government of Zambia should change the Investment Code during that period.

6.10 Implications for American Investors

Recently enacted reforms are creating an environment that is not merely open to American investors, but is hospitable to them. Procedures for the creation of new ventures have been compressed or simplified, prohibitive regulations and monopolies are being suppressed, and privileged state companies are being offered for privatization to foreign investors. While the authorities are seeking to encourage joint-ventures with Zambian nationals, no administrative or regulatory procedures remain in place that might be used in a coercive manner. American investors would do well to seek partnerships with savvy local businesspeople who are familiar with the practical constraints and limitations of the Zambian business environment.

7. INFRASTRUCTURE

7.1 Transport

A landlocked nation, Zambia depends on road and rail routes through its neighbors for access to ports in Tanzania, South Africa, and Mozambique. Operational restrictions of the past, stemming from regional political conflict and sheer inefficiency of transport systems, are easing at a steady pace.

Prior to the 1960s, South Africa was the principal port of transit for goods entering or exiting Zambia. Front-Line State opposition to apartheid resulted in a formal boycott of South African ports and a shift to facilities elsewhere. Continuing civil war in Mozambique over the past decade periodically cut off rail and road access through that nation as well. By default, the majority of transit shipments on Zambia's behalf were handled through the Tanzanian port of Dar es Salaam. Chronic breakdowns on Zambia's Tazara Railway and congestion in the Dar es Salaam port produced periodic bottlenecks and losses of trade goods. During the past 2 years, however, the flow of goods in and out of South Africa has increased dramatically, while some improvements have also been noted in the volume of shipments through Mozambique's Beira Corridor.

Zambia's railway system is a key element of national unity; nearly half of Zambia's population resides along the rail line that runs southward from Copperbelt to Lusaka and the Zambezi River town of Livingstone. As the principal means of evacuating mineral and agricultural exports, the railway is an economic artery of paramount importance. The condition of the railway, however, mirrors that of the economy at large. Track and rolling stock are neither adequate nor sufficiently well maintained. In spite of extensive aid from donors for the maintenance and upgrading of rail operations, programmed improvements have often fallen victim to mismanagement, political interference, and malaise. Prospects for alternative rail routes to the sea have improved as the result of a peace settlement in Angola and plans for the rehabilitation of the Benguela railway.

Additional factors contributing to bottlenecks on the Zambian rail system are related to through traffic to landlocked eastern Zaire and Malawi. Shortages of backhaul cargo from the coast limit the availability of inland rolling stock on occasion, as railcars are held at the coast awaiting goods.

Zambia's road network is, like the railway, generally sufficient, but in degraded condition caused by inadequate maintenance. However, the government, aided by donors, has made rehabilitation a major investment priority. Transport routes are diversified and include linkages through Namibia to the coastal port of Walvis Bay.

Domestic air service is provided by Zambia Airways and Roan Air, a subsidiary of Zambia's national copper company. The airlines serve all major cities, and roundtrip service between Lusaka and the Copperbelt is available on an almost hourly basis during weekdays. Regional air service is available through a large number of carriers, including South African Airways. Lusaka is served by five flights weekly to Europe, and air links are also available to India and the Middle East.

It is impossible to predict how the government's plan to privatize Zambia Airways will affect that carrier's hopes of becoming the dominant regional airline, with Lusaka serving as the major airline hub for all of south-central Africa. However, given adequate capital and sound management, the airline could well realize its ambitions.

7.2 Energy

Zambia is self-sufficient in electricity production, because of hydroelectrical output from the Kafue Gorge river turbines. While rural electrification has proceeded at a slow pace, all major towns are well served. Old, overburdened, and inadequately maintained transmission lines result in intermittent power failures in all cities, often during peak usage periods. The government has included the national electric power company among the candidates for privatization.

7.3 Communications

Telecommunications in Zambia are available in the main urban centers. Services are costly and unreliable, and the installation of new service is often subject to lengthy delay.

Zambia is a member of Intelsat and operates an Earth satellite station, which provides telephone, telex, facsimile, and television links. The quality of international service is consequently often of a higher quality and more reliable than domestic communications. Facsimile transmissions are not always clear, while high-speed data transmission with Europe and the United States is generally impossible.

Postal communications among Zambia, Europe, the United States, and the Middle East are generally satisfactory. However, domestic mail delivery is often prone to inordinate delays.

7.4 Private Business Services

Professional business services are available in major cities through local companies that are often affiliates of major European and American firms. Professional services that are not in great demand locally can usually be obtained from firms that are present in other key cities of southern and eastern Africa. Professional service standards and practices are modeled on those of Great Britain.

7.5 Implications for American Investors

As with other aspects of the economy, Zambian infrastructure bears the scars of several decades of relative neglect. The government, along with major donors, is placing high priority on the rehabilitation and upgrading of the transport and communications infrastructures. In recent years, local transporters in the public and private sector have demonstrated responsiveness to new opportunities, returning to long-closed routes to the sea through South Africa and Namibia. Privatization of key operating companies will result in both investment opportunities and greater efficiency over the medium term.

8. Foreign Trade and Balance of Payments

For the last 60 years, Zambia's economic fortunes have risen and fallen with the performance of its copper exports in world markets. Given excessive reliance on mineral exports in the past, Zambia is now seeking to promote diversification of its export industries through market liberalization and the lowering of investment barriers.

Zambia is burdened with high external debt, equivalent to approximately 560 percent of exports of goods and services. The nation is seeking to find equilibrium through policy reform and economic openings, supported in large measure by the donor community.

8.1 Major Indicators Summary Graph

Zambia Balance of Payments, 1987–1991
(U.S. $ in millions)

Year	1987	1988	1989	1990	1991*
Exports f.o.b.	868	1,156	1,407	1,263	1,098
Imports c.i.f.	772	888	1,020	1,084	1,118
Balance of trade	96	267	387	179	-21
Current account	-242	-164	-149	-139	-150

Source: Zambia Ministry of Finance, March 1992.
*Estimated.

8.2 Recent Performance

Throughout the 1960s, Zambia enjoyed both high returns from its copper exports and strong surpluses in its balance of payments. By the mid-1970s, however, falling copper revenue and profligate government spending had produced current account deficits of nearly 30 percent of the GDP. By the time that copper prices recovered in the late 1970s, the nation's current account deficit and arrears on trade-related debt had become chronic.

Erosion in the value of the kwacha against major trade currencies has forced the volume of imports downward, while raising production costs and narrowing profit margins on exports. A drop in world market prices for copper of 13 percent between 1990 and 1991, combined with marginal reductions in output (including that related to drought) and a higher-than-anticipated energy import bill, produced an external financing gap, after rescheduling, of U.S. $1.1 billion.

8.3 Exports

Minerals form the largest element of Zambia's exports, accounting for more than 90 percent of annual export value over the last two decades. Electrical power, specialized agricultural commodities, a small array of manufactured goods, and tourism receipts account for the remainder.

Between 1987 and 1990, Zambian exports grew by 45 percent, rising from $868 million to $1.2 billion. Hopes for diversified exports were fulfilled somewhat in 1987, when tobacco exports registered impressive gains (70 percent). However, in 1991, export revenues dropped by nearly $200 million—a result of weak mineral markets and diminished agricultural output. Serious drought in eastern Africa has, however, forced businesspeople and policymakers to put their hopes for nontraditional export growth on hold for the time being. This setback could not have occurred at a worse time, given Zambia's all-out efforts to stop current account deficits.

8.4 Imports

Zambia's principal imports are petroleum, machinery and spare parts, manufactures, chemicals, and components for motor vehicle assembly. Between 1985 and 1991, Zambia's imports rose steadily, from $625 million to $1.1 billion. During a period when the government sought to reduce exports to stabilize current account deficits, the erosion of Zambian buying-power caused by high inflation has driven imports up instead.

8.5 Direction of Trade

Zambia's trade is geographically diversified, and the nation is well positioned to profit from regional markets. Traditionally, the nation has been heavily dependent on Britain and the European Community. However, although the European Community has been the nation's principal trading partner since independence, trade with western partners has declined in recent years, with imports from Britain declining by approximately 60 percent during the last 3 years. Trade with Japan has more than tripled since 1985.

In recent years, South Africa has become by far the largest source of Zambian imports, while increasing consumption of Zambian exports by roughly 30 percent during the second half of the 1980s. This suggests that the Front-Line States' embargo of South Africa has not only been ineffective, but it may have been undermined by more pragmatic concerns.

8.6 Exchange Rate Policy

As noted earlier, Zambia's currency is not yet freely convertible on world currency markets. Until late 1991, the government operated a two-tiered market for foreign exchange transactions. In the first market, foreign currency proceeds from copper exports were sold for a few specified purposes at an official exchange rate. The second market, or "window," was nourished by foreign exchange transactions from other exports and donor funds. Any individual or company was permitted to sell foreign exchange through the second "window" on a no-questions-asked basis. In late 1991, rates in the two markets were allowed to converge. The unified rate is periodically adjusted to keep supply and demand for foreign exchange in equilibrium.

8.7 Currency Outlook

In its 1992 budget, the Zambian government programmed growth of 25 percent in the money supply. Monetary authorities in Lusaka believe that this target is consistent with its goal of holding inflation to 45 percent.

8.8 Trade and Payments System

Under the newly unified payments system, companies must register for approval with the Bank of Zambia for any transfers of funds abroad, including technology transfer agreements that involve royalties and foreign loan contracts and salary agreements with expatriate employees, including foreign exchange inducement allowances.

In February 1991, the government of Zambia reached a milestone in its efforts to liberalize cross-border trade payments. All imports are now formally subject to an open general licensing (OGL) system, which has effectively terminated central bank allocations of foreign exchange for imports. Constraints in the supply of foreign exchange have, however, imposed operational limits on the implementation of this system. There is growing optimism in the Zambian business community that foreign exchange controls may be virtually eliminated by the end of 1992.

8.9 Licensing Requirements

Import and export transactions require licensing, although under the OGL system licenses can now be granted by commercial banks rather than the Ministry of Commerce, Trade and Industry. Procedures for obtaining an import license depend on the manner in which the importer plans to finance his or her purchase. Export-oriented operations generally utilize the export retention scheme, under which importers can use the retained foreign exchange earnings from exports or purchase retained foreign exchange from other exporters. The acquisition of foreign exchange through the banking system requires the presentation of a pro forma invoice and an inspection certificate for imported goods, with foreign exchange allocated on a first-come, first-serve basis.

8.10 Invisibles

Recent liberalization of foreign exchange controls reflects both greater equilibrium in Zambia's balance of payments and diminished concern about capital flight. The emphasis of government policy at present is on serving the needs of the business community, somewhat to the detriment of the individual international traveler. The transfer of nonbusiness capital abroad has always been a source of antagonism between the government and Zambia's citizens.

8.11 Capital Transactions

As noted earlier, the Investment Act of 1991 describes ceilings and conditions for remittances, dividends, profits, royalties, and other cross-border capital transactions.

Zambia, Direction of Trade 1985–1989
(Million US $)

	1985	1986	1987	1988	1989
			Exports (fob)		
Japan	109.5	120.3	210.0	274.3	395.2
France	29.1	31.9	53.5	72.8	178.5
Italy	49.0	53.8	91.9	122.6	112.4
India	40.6	44.6	74.4	101.6	94.3
Benelux	15.6	17.1	30.8	39.0	79.5
Thailand	9.4	10.3	21.4	23.5	64.9
USA	14.0	15.3	31.8	34.9	43.4
Total (incl. other)	470.7	517.0	876.7	1,179.0	1,322.4
			Imports (cif)		
South Africa	123.3	106.4	116.6	137.0	NA
UK	101.1	87.3	115.6	112.4	194.9
Japan	34.7	30.0	39.6	38.6	89.2
West Germany	29.0	25.0	31.9	32.2	63.9
USA	61.6	53.2	67.8	68.5	50.3
India	5.0	4.3	11.3	5.6	42.0
Italy	6.6	5.7	8.9	7.4	29.0
Total (incl. other)	625.8	540.4	672.3	695.5	888.9

Source: Government of Zambia, March 1992.

8.12 Regional and International Affiliations

Zambia is a signatory to the Lome Convention, which allows it generous trade concessions with the European Community. It is also a member of the Preferential Trading Area (PTA), an organization of eastern and southern African states. Zambia's relationship with the European Community could prove crucial to the country's economic development. The terms of the Lome Convention allow Zambia to enjoy several advantages, including:

- Exemption from import quotas
- Exemption from tariffs
- Access to public procurement contracts with any European Community government

Under the Lome Convention, a group of African, Caribbean, and Pacific nations (ACP) are classified as associate members of the European Community. Included under the terms of ACP status are a number of additional concessions:

- Products obtained from ACP states qualify for reduced or nontariff entry into the European Community.

- No more than 5 percent of the contents of such products should originate from outside the European Community or ACP countries.

Definitions of "processing" are set out in the agreement to ensure that value-added in an ACP country qualifies for concessional treatment.

The PTA is a regional economic cooperation organization composed of 17 countries in eastern and southern Africa. The most developed regional economies in the organization are Kenya, Zimbabwe, and Mauritius. Among the advantages of the PTA is that it can speed up access to foreign exchange for transactions between companies in member states. The PTA has a clearinghouse to facilitate foreign exchange transactions for trading among its members. This enables Zambia to obtain foreign exchange payments with relatively little delay. Zambian firms using the clearinghouse are generally satisfied with its operations.

Zambia is also a founding member of the Southern African Development and Coordination Conference (SADCC), founded to promote greater economic cooperation in the region. (Other members include Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, and Zimbabwe.) Created in 1980, SADCC set out to reduce the dependence of member states on apartheid South Africa, to improve regional economic integration, and to mobilize regional and international support for development of the southern African economy.

SADCC has been most effective in its sponsorship of regional development projects, particularly in the areas of transport and telecommunications. Of more than $8 billion pledged for some 600 projects, more than half has been disbursed to date, with the majority of financing derived from foreign donors.

SADCC has been less effective, however, in its efforts to promote harmonization of regional trade tariffs and regulations, in large measure because of the group's focus on political action with regard to South Africa. Political progress in that nation and informal unilateral departures from the boycott of South Africa have diluted the effectiveness of SADCC in that respect. While impressive progress has been made in the identification of areas for action and in the crafting of regional accords, member nations of the group have applied these in an uneven manner. Given time, however, SADCC can play a pivotal role in facilitating trade and the transit of cargo throughout the region.

8.13 Implications for American Investors

Trade and payments systems in Zambia are being radically reformed to better serve the needs of business. The creation of the OGL process and the merging of official and "window" exchange rates are signs of the government's resolve to normalize trade and facilitate the timely settlement of trade credit.

To date, few foreign businesses have settled in Zambia to take advantage of the free-entry provisions for goods entering the European Community from the ACP countries. That option is an attractive one, particularly for U.S. firms who have difficulty competing in the European Community market on their own.

9. External Debt and Aid

Zambia's current government has inherited staggering debt obligations incurred as a result of its predecessor's flirtation with socialism and state control of the economy. With a population of about 8 million and an external debt of more than $7.2 billion, Zambia's per capita debt is among the highest in the world. Although the nation's debts are a formidable damper on even the most optimistic scenarios for economic growth, most of the debt is owed to foreign governments and multilateral institutions that are playing an active role in the MMD government's economic reform program.

9.1 External Debt

Zambia's external debt grew by 124 percent during the 1980s, because of extensive government borrowing. Outstanding long-term debt grew by 115 percent, from only $2.2 billion in 1980 to $4.8 billion at the end of 1990. Zambia's debt service ratio stood at 65 percent of the GDP at the end of 1991.

Official debt from governments and international institutions comprise 89 percent of Zambia's outstanding long-term debt. Of this amount, 59 percent is owed to bilateral creditors, more than half of it in the form of concessional loans at below-market rates. Multilateral creditors account for about 30 percent of long-term debt. The remaining 11 percent is owned to private creditors, including commercial banks.

9.2 Foreign Aid

Zambia's program of structural adjustment and economic liberalization is attracting extensive support from the international donor community. Economic reform measures have been linked to inflows of resources necessary for their implementation as well as to the rescheduling of the nation's debt.

Annual foreign aid commitments to Zambia peaked in 1980 when the country was pledged $645 million by official bilateral and multilateral donors. As Zambia's external debt mounted and its internal economic problems intensified, Zambia resisted economic recovery programs prescribed by multilateral agencies. As a result of this resistance, development assistance commitments to Zambia dwindled, reaching an all-time low of only $52 million by 1990. Annual aid disbursements followed a similar pattern, peaking in 1980 at $608 million and reaching their lowest point in 1990 at $154 million.

Zambia's relations with multilateral creditors and donors have improved markedly since 1990, in large measure because of the country's adoption of prescribed economic reforms. North American, European, and Japanese development agencies have reformulated their programs of economic assistance and are actively providing technical assistance for the implementation of critical elements of the structural adjustment program.

9.3 Multilateral Adjustment Programs

Relationships between Zambia and multilateral agencies, especially the IMF, were volatile under the Kaunda regime, but have improved dramatically during the past year. Zambia's recourse to IMF credits began in 1975 with an effort to shore up its current account deficit following the collapse of world copper prices. The situation continued to worsen for the rest of the decade, and in 1978, Zambia adopted an IMF-sponsored stabilization program of considerable severity.

A new IMF agreement was negotiated in 1981, reinforcing the emphasis on structural adjustment and providing for more time for the adjustment process to take place. The arrangement, however, was suspended the following year when the government failed to meet the IMF's performance criteria. In 1982, the government took a pre-emptive measure of its own. It devalued the Kwacha by 20 percent, suspended repayment on all debt principal (but not interest), and froze wages. It also announced its intention to lift price controls. Despite these measures, Zambia's economy continued to deteriorate, and between 1981 and 1985, the country met only a small fraction of the external debt service payments originally due each year. During the same period, Zambia also fell into arrears with the IMF.

In July 1984, the IMF suspended all disbursements to Zambia as a result of disagreements over the pace of exchange rate depreciation, the continuance of subsidies, and a lack of evident measures to satisfy arrears on debt. Efforts by the Zambian government to meet the IMF conditions in 1986 included the removal of subsidies on corn meal, which triggered violent protests in major cities. In 1987, the Zambian government abandoned the IMF-sponsored recovery program and suspended further negotiations with the IMF.

Although the Zambian government introduced a recovery program of its own, the fallout with the IMF resulted in a sharp reduction in aid from abroad. Following the suspension of IMF lending, a wide range of donors withdrew program funds pledged to finance such activities as currency auctions. With no alternative means of obtaining assistance, Zambia was forced to resume negotiations with the IMF in early 1989.

After almost a year of negotiations, a new agreement was reached in February 1990, with the Zambian government pledging to privatize many of its commercial enterprises, public utilities, and social services. Zambia also agreed to reduce or lift state subsidies on a wide range of items, including corn meal. This action was again followed by civil turmoil, obliging the government to postpone recision of corn subsidies while phasing subsidies on nonfood items. By this time, however, it became clear that the rioting was, to a large extent, an expression of the growing public opposition to President Kaunda's UNIP government and its failed policies.

As a result of the nation's commitment to political pluralism, Zambia has profited from public confidence and goodwill in the international community. In March 1991, Zambia repaid $319 million in debt arrears to the World Bank, agreed to reduce subsidies on foodgrains, and embarked on a privatization program aimed at stopping the flow of critical resources to the parastatal sector. In exchange, Zambia received $237.2 million from the World Bank to finance the economic reform program. Although the country remained in debt arrears to the IMF, in April 1991, the Paris Club of official creditors pledged an additional $650 million to help Zambia in its economic recovery.

In early 1992, Zambia's prospects were brightened as a result of both new multilateral commitments and a rescheduling of its debt by the Paris Club of official creditors. Looking forward, Zambia has secured the aid commitments necessary to close short-term balance of payments gaps and to provide a bridge during critical phases of the adjustment process.

9.4 Implications for American Investors

Zambia's ability to service its debt will depend to a large extent on the rigor of reform efforts designed in tandem with the IMF and the World Bank. The principal objective of reform is to restore economic growth fueled by private investment and sound fiscal management. This practically ensures that Zambia's government will continue with a sustained retreat from involvement in commerce and industry through processes of privatization, deregulation, and improved management of its own operations. In exchange for its diligence, the Zambian authorities can count on external financing of the adjustment process, concessional treatment for new credit, and rescheduling of long-standing obligations.

While high debt loads and government borrowing have limited the availability of credit from local institutions and driven interest rates upward, equilibrium in the financial system is likely to be restored over the short to medium term. Foreign assistance will remain a key element of Zambia's reform program and will be aimed at mitigating the social costs of economic reform and promoting productive new investment. Donors will play a crucial role in assisting Zambia to diversify agricultural production and to enter new export markets.

10. LABOR

Zambia has an abundant supply of relatively inexpensive labor. Unemployment and underemployment are high, particularly among young people, placing pressure on the nation's leaders to implement policies aimed at generating new employment. Shortages of skilled labor are characteristic of the Zambian labor force, and the government has a generally liberal attitude toward the employment of skilled expatriates in the local economy.

10.1 Profile of Labor Resources

Zambia's population of 7.8 million can be characterized as young (45 percent under the age of 15), urban-based (48 percent), and concentrated in a relatively small number of towns along the main rail line linking the Copperbelt with the border town of Livingstone. Zambia's high rate of urban migration is a result of employment-seeking by rural populations who believe that their economic prospects will be better in the cities.

During the years immediately following independence, shortages of skilled and educated people in the work force were widely acknowledged to be a major barrier to economic development in Zambia. Consequently, the Kaunda government invested in a major national program to establish technical centers for accelerated training. The results of this program were not encouraging, and several years later, the government was able to cite few success stories resulting from this effort.

Although Zambia's government has made progress toward increasing the numbers of children who attend school, educational infrastructure remains inadequate, and literacy rates seem stalled at just over 50 percent. The nation's two universities have produced a cadre of sophisticated and highly skilled graduates. However, the lack of economic opportunity at home has led many of the nation's most talented graduates to seek their fortunes overseas. Unofficial estimates suggest that as many as 50 percent of university graduates currently reside outside of Zambia.

To fill the gap in technical expertise, Zambian parastatals and private companies have often employed expatriates, with the largest number drawn from Great Britain, South Africa, and Zimbabwe. In 1976, approximately 33,000 expatriates (or 9 percent of formal sector workers) occupied management and technical positions in Zambia. By 1984, that number had been reduced to only 14,000 (or 4 percent of the labor force). Wide economic disparity exists between workers employed in the mines and smelters of the Copperbelt and those employed in other sectors of the economy.

10.2 Underemployment and Unemployment

In 1970, formal sector employment stood at 270,000 jobs. By 1991, only 100,000 new jobs had been created in the formal sector, a period during which Zambia's population grew by 4 million. These figures provide a vivid indicator of the high rates of unemploymen and underemployment in Zambia today.

The root causes of high unemployment in Zambia are not difficult to understand economic growth has simply not kept pace with population growth. Prolonged economi crisis has siphoned credit funds out of the banking system to finance public sector deficits rather than making them available for productive investment that might result in jot creation.

Zambia's formal sector labor force at the outset of 1991 stood at 371,800 persons, bu fell to 359,000 by mid-year. Hardest hit by redundancies and slowdowns were the mining sector and construction. The economic downturn of 1991 took its toll in other ways as well; business closures in the service and manufacturing sectors increased during this period, while drought reduced the operations of commercial agriculture, a traditional source of seasonal employment.

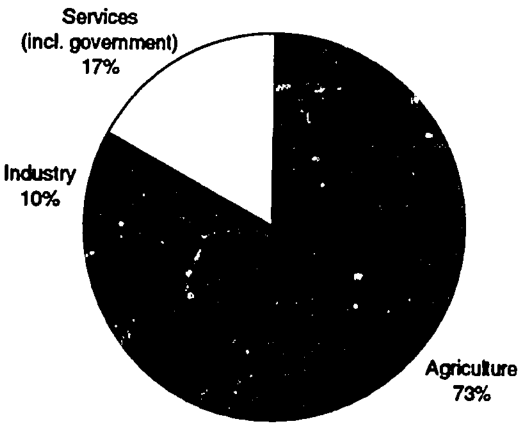
No reliable data exist regarding employment in the informal sector; however, it may be safely assumed that the informal labor force is far larger than that of the formal sector.

10.3 Income Policy

Since the mid-1980s, Zambian authorities have been faced with the very difficult challenge of aligning wages with mounting costs of living that often bordered on hyperinflation. Failure to successfully control the root causes of inflation has long undermined efforts to develop a consistent and stable national wage policy.

Given the very small proportion of the labor force that works in the formal sector, Zambia must be viewed as operating on the basis of a dual wage system. Formal sector salary grids are determined by legislation and labor activism, while those in the informal sector are market-driven. Given the nation's very high rate of unemployment and stagnation in new job creation, real labor costs have been driven downward, even in the face of inflation.

Sectoral Distribution of the Zambian Labor Force



The election of President Chiluba, a former trade unionist, has put wage policy on the front-burner of MMD concerns. However, the volatility of the economy and the government's commitment to attacking the root causes of inflation and budgetary deficits mean that adjustments to official wage structures will have to be made intermittently. Under the terms of its agreements with the IMF and the World Bank, however, the government will have to exercise restraint. There is little likelihood that wages can keep up with the pace of inflation during the next 2 years without jeopardizing multilateral assistance to the reform program.

10.4 Labor Unions

Zambia's new president, Frederick Chiluba, formerly headed the 300,000-member Zambia Congress of Trade Unions (ZCTU). Under Chiluba's leadership, however, the ZCTU took an increasingly activist role in challenging the government. President Kaunda sought for many years to incorporate the ZCTU as an arm of UNIP, holding out a seat on the powerful party Central Committee to the ZCTU leader in exchange for such a concession. Chiluba, however, refused the gesture and chose instead to play a leading role in the MMD, an opposition party.

Factions within the ZCTU had long felt that the trade union exerted an overly powerful influence over its constituent groups and sought to make the ZCTU a voluntary organization. In a political effort designed to undermine Chiluba's growing political stature, President Kaunda promulgated the 1990 Industrial Relations Act, which made membership in the ZCTU optional for all workers and which promoted the formation of trade unions outside of the ZCTU. However, coming as it did in a period of increasing political and economic ferment, the law also established harsh new limits on the right of workers to strike and to request arbitration of disputes. The ZCTU, supported by a counterpart labor federation in Europe, challenged the law and used it as a rallying point for opposition to UNIP in the 1991 elections.

Miners in the Copperbelt have benefitted for a long time from the high wage structures established during the colonial period, when white colonists were the core labor force, in the mines. After independence and the transition to a Zambian labor force, the miners' union fought successfully to maintain the high wages and generally good working conditions that had been established by their colonial predecessors. The union has never hesitated to use strikes and work slowdowns as a means of safeguarding its interests, particularly during periods when ZCCM and the government have sought to reduce the size of the work force in the mines.

10.5 Expatriate Living Conditions

Living conditions for expatriates in Zambia's towns and industrial centers are generally excellent, with well-established amenities. Lusaka, the capital, is a modern city with several international schools offering American, British, and European educational programs. Also, Zambia's climate is moderate, with mean maximum temperatures between 30 and 35 degrees Centigrade during the month of October.

Excellent quality housing is readily available, and rates are competitive by international standards. Services such as water, telephone, and electricity are reliable in many areas, where public utilities are supplemented by company or housing scheme services. The reliability of services elsewhere varies.

Although Zambia's tourism resources are underdeveloped, there are an abundance of recreational and touring opportunities in the country, including Victoria Falls and a number of world-class wildlife parks.

10.6 Implications for American Investors

Zambia offers a large pool of inexpensive labor in a highly competitive employment market. Although technical skills are low by global standards, levels of literacy and basic education are good. Zambian workers are generally well disciplined, highly motivated, loyal, and anxious to improve their technical and management skills.

Unemployment will remain high for the foreseeable future, keeping the job market highly competitive. While there is no question about the commitment of the government to attack the underlying causes of economic instability, there is great uncertainty regarding how quickly inflation and wages can be stabilized.

11. Financial Sector

11.1 Overview of the Financial Sector

The Zambian financial system is poorly developed by international standards. Years of socialist-style economic management and government borrowing undermined the development of banking and other financial services. Most Zambians have little experience with banking instruments in an economy that is heavily dependent on banknotes and coins as the media of exchange.

The financial sector consists of a small number of institutions, including several commercial banks, one merchant bank, one national insurance firm, a small number of institutional investors, and a network of grass-root-level savings and credit cooperative societies. Most financial institutions in Zambia are owned by the government.

11.2 Banks

There are 10 commercial banks operating in Zambia, with various levels of government-held equity. The Bank of Zambia is the bank-of-issue, controlling foreign exchange, monitoring interest rates, and supervising the rest of the banking sector. Since November 1989, the central bank has been headed by a Canadian banker under an agreement with the IMF.

Bank interest rates were decontrolled in 1985 and, fueled by domestic financing of government deficits, rose to more than 30 percent for some borrowers. The current inflation rate, however, would result in unsustainable nominal interest rates in excess of 118 percent. The government hopes that success in combating inflation will result in the achievement of positive real interest rates as early as 1993.

Popular confidence in the policies of the newly elected MMD government is reflected in the growth of capital held by the banking system. During 1991, demand deposits with banks rose by 66.1 percent, while time and saving deposits increased by 119.5 percent.

The lending of funds to any person who is not a citizen of Zambia or to a company that is controlled by non-Zambians requires the approval of the Bank of Zambia. With this stipulation, a foreign-controlled company can obtain loans or overdrafts up to one-third of the value of its paid capital.

11.3 Nonbank Financial Institutions

Banks possess the majority of the financial assets in Zambia. Nonbank financial institutions are of several types: investment firms and grass-roots deposit and credit operations. Besides commercial banks, savings and credit cooperatives are the principal intermediaries—and often the only financial institutions accessible—for workers in the mining, manufacturing, and agricultural sectors.

11.4 Institutional Investors

Zambia has only one national insurer, the Zambia State Insurance Corporation. The company is wholly owned by the government, which plans to terminate the insurance monopoly in the near future. The company has a wholly owned London-based subsidiary, Africa Inter-Continental Insurance Services, which insures exports and imports from and into Zambian by Zambian exporters and importers.

The Zambian Export and Import Bank is a government-owned institution established in 1987 to promote nontraditional exports. It offers project lending, preshipment credit, and disbursement of foreign exchange under lines of credit.

The government-owned Zambia National Provident Fund lends to private and public organizations for real estate development and participates in the share capital of companies. Also involved in real estate development is the government-owned Zambia National Building Society.

The nation's only development bank, the Development Bank of Zambia, was created in 1974 and is wholly government owned. Following years of poor management, this institution finds itself bankrupt. In the past, the Development Bank provided medium-term financing of amounts up to 75 percent of the total assets of the borrowing company, with a minimum of K2.5 million ($20,000). Larger companies qualified for this facility only if they are incorporated in the Republic of Zambia. Smaller businesses qualified for lending only if the majority of shares are owned by Zambian nationals. As Zambia's reform program moves forward, it is likely that the capital of this institution will be replenished, restoring it to its original function.

11.5 Capital Markets

Zambia has no stock exchange and has yet to develop a secondary market for financial instruments such as bonds. The MMD government has committed itself to the establishment of a stock exchange and the creation of money and capital market instruments that can be sold to the public as a means of raising investment capital for new ventures. The government is, at present, drafting legislation that will authorize the creation of a national stock exchange. It is also expected that several venture capital funds will be created during the next 2 years.

The country will, however, need to promote the growth of the banking industry, extend baking services to areas and sectors that are currently underserved, and promote other financial intermediaries, such as leasing companies, finance companies, merchant banks, and credit unions.

11.6 Monetary Policy

The Bank of Zambia monitors the growth in money supply (M-2). Under political pressure, money supply growth has been excessive during the past 5 years. Growth rates reached

93 percent in 1986, dropped to 60 percent in 1987, but rose again to 75 percent in 1988. By 1991, growth of the money supply had climbed to 98.2 percent, fueling inflation. Zambia's currency, the kwacha, was linked to the U.S. dollar from the time of its introduction in 1968 until 1976, when it became tied to the IMF's Special Drawing Rights (SDR). Prior to 1985, the value of the kwacha was fixed at the grossly overvalued rate of 2.2 to the dollar. In that year, however, currency auctions were introduced, allowing the kwacha to devalue to as little as 14.6 to the dollar. Following Zambia's suspension of negotiations with the IMF in 1987, the government fixed the value of the kwacha at 8 to the dollar.

Between the resumption of IMF-sponsored currency auctions in late 1989 and December 1991, the value of the kwacha dropped by more than 1,000 percent. In January 1992, the MMD government announced yet a further devaluation at a fixed "official" rate of K125 to the dollar. Since 1989, the Bank of Zambia has operated a dual exchange rate for the kwacha; an "official" is applied to exchanges related to approved imports and purchases of foreign exchange by the government. A "market" rate is applied to all other transactions and reflects the open-market value of Zambia's currency, fluctuating between K200 and K210 to the dollar during June 1992.

11.7 Implications for American Investors

Zambia's government seems committed to restoring equilibrium to the financial system and to diversifying the number of institutions serving the nation. Under adjustment programs that are supervised by multilateral institutions, Zambia is likely to restore sound management to the money supply and interest rates, freeing up resources for lending to productive investments and reversing inflationary trends that have undermined savings and interest rates. Recovery will be gradual, but rewarding over the long term, for those investors who are able to take advantage of the many new openings that result from the liberalization of commerce and industry.

Privatization of wholly owned government institutions and suppression of state insurance monopolies will create opportunities for new investors in banking, insurance, and financial services. New ventures in industry and agriculture are likely to qualify for new lending windows at the Zambian Development Bank; however, demand for credit is likely to exceed available credit. Given the scarcity of loan funds from local institutions, American investors will want to investigate borrowing opportunities outside of Zambia.

12. Inflation and Price Controls

Inflation in Zambia reached its highest level since independence—158 percent—in 1989. Although inflation dropped considerably during the next 2 years, it remained above 100 percent to the end of 1991. This trend reflected the growth in Zambia's public sector recurrent expenditure and the expanding domestic borrowing to finance the government's budget deficit.

The MMD government has introduced a wide range of measures aimed at driving down inflation. However, given that the causes of inflation are systemic in nature, these measures will take time to become effective. Some of the government's reforms, such as a lifting of price controls and subsidies, are bound to spur short-term inflation as goods and commodities find competitive equilibrium in the Zambian market.

12.1 Inflation

Two factors have historically contributed to high inflation in Zambia: unbridled growth in the money supply and excessive borrowing by the government from domestic banks. These factors were interlinked throughout the 1980s, stemming from chronic budget deficits, expansion of the parastatal sector, rising public sector wage bills, and unmanageable state subsidies. These, in turn, led to the deterioration of the value of the kwacha against major currencies and, consequently, to higher costs for imports.

Data for 1991 reflect the final year of UNIP rule, which was marked by hyperactive efforts to shore up a rapidly deteriorating economy. During 1991, the money supply grew by 98.2 percent against inflation of more than 100 percent. High inflation also discouraged bank deposits, with the flow of currency outside banks rising by 98.6 percent during the same period. Government borrowing from the local commercial banking system rose by 264 percent, while government borrowing from the central bank, the Bank of Zambia, rose by a staggering 652 percent.

The MMD government's target is to reduce inflation to 60 percent during 1992. It aims to achieve this objective by bringing down the money supply in the economy by 75 percent and by reducing the budget deficit to a level that can be financed exclusively from revenue and noninflationary sources. Some of the government's actions will involve the elimination of subsidies, reductions in the civil service, the privatization of parastatal companies, and the replacement of control and management systems within the government itself.

Government targets will be difficult to achieve over the short term, given that some of the proposed measures may seem, at first, to be inflationary. However, over the mid- to long term, inflation will be reduced as the money supply is brought under control and import liberalization reduces price pressures in the marketplace.

12.2 Price Controls

The first step by the MMD government to address Zambia's economic crisis upon coming to power in November 1991 was the difficult task of reducing subsidies on food grain staples by between 50 and 90 percent. As a result, prices of those commodities rose by more than 100 percent. The price of motor fuel, which had remained static since August 1990, rose by 25 percent when price controls were relaxed in January 1992.

The government plans to eliminate subsidies completely by the end of 1992 and to liberalize the pricing of corn and corn meal, staples of the local diet. Toward that end, the government has uncapped producer prices, a move that has driven the farmgate and consumer prices of staple food upward over the short term.

Heavy implicit taxes on agriculture, stemming from price controls and an overvalued currency, are being eliminated. Instead, the government is devising programs aimed at promoting private sector investment in agricultural production, processing, and export promotion. As part of this strategy, the government has established an Agricultural Market Information Centre to improve the flow of information on crop developments and prices.

12.3 Implications for American Investors

Although 1992 remains a year in which the Zambian economy is undergoing sometimes wrenching adjustments, the fact remains that market forces are being allowed to create equilibrium within Zambian markets. While this has caused uncertainty among Zambian consumers, agricultural producers, processors, and traders are operating in a relatively free market for the first time in more than a decade. For those businesses already in place, the rewards are immediate.

Stabilization of Zambia's money supply and the government's eagerness to privatize parastatal industry are likely to produce bargains for those seeking to invest in formerly overvalued and noncompetitive enterprises. American investors in Zambia can expect the government to adhere to its commitment to control the money supply and cut back on domestic financing of government deficits. This will reduce inflation to manageable levels and stabilize foreign currency reserves in the Bank of Zambia over the next 2 years.

13. Public Finance

The MMD government has defined a strategy for adjustment that covers the 1992–1994 time frame. While the strategy calls for a wide range of policy and institutional changes, the principal goal of the program is to stabilize the macroeconomic environment. Fiscal and monetary restraints are key features of the plan, in spite of uncertainty regarding prospective export revenues. The government is taking the prudent tact of basing its assumptions on further contraction in revenues.

13.1 Overview of the Fiscal Situation

Fiscal policy of the MMD government is aimed at reversing long-term economic decline and restoring growth in the economy. The government has defined its targets as achieving real GDP growth of 2 percent in 1992, 3 percent in 1993, and 4 percent in 1994. If the government is successful, this level of growth will not permit per capita consumption to increase until 1994, because of anticipated deterioration in Zambia's terms of trade and because of critical demands for new investment. However, even these modest targets would represent a marked departure from the economic decline of recent years.

Among the most pressing policy problems is that of driving down inflation. The government hopes to bring inflation down from 100 percent in 1991 to 45 percent in 1992, 15 percent in 1993, and 5 percent in 1994. This will require a higher level of fiscal and monetary discipline than the nation has ever known.

A cardinal principle of the government plan is that public authorities cannot use domestic borrowing to finance budgetary deficits. Toward this end, the government is seeking to limit its deficit in 1992 to only 2 percent of the GDP. It is hoped that budgetary balance can be restored in 1993, while producing a modest surplus in 1994.

13.2 Public Expenditures

The greater burden of Zambian fiscal reform will be carried by reorganization and savings in public expenditures. The principal objective of operative planning is to reduce current noninterest expenditures as a percent of the GDP from the 1991 level of 16 percent to 14 percent in 1992. This will occur, however, even while operating costs other than those of personnel are rising in real terms. To achieve this target, major changes will be necessary, including reductions in the size of the civil service and parastatal sector, devolution of government authority to local governments, control of government commitments and expenditures, and a phasing out of subsidies.

The MMD government's aim is to create a smaller, more efficient, and better paid civil service. (The average salary of a senior civil servant in 1991 was only 50 percent of what it was in 1980, measured in real terms.) Early-retirement programs and hiring freezes will be used to reduce the size of the civil service, while incentive packages will be restructured to reduce attrition among the most qualified civil servants. Privatization or liquidation of parastatal companies will further ease public spending, as will a "hiving-off" of government and quasi-governmental agencies, which can survive on the basis of their own revenue-earning activities.

Government subsidies will be reduced drastically, through the termination of coupon schemes (a food-stamp-like program) and the suppression of direct subsidies on fertilizer purchases and corn warehousing by 1993. Government lending to parastatals (an implicit subsidy) will be capped at a rate of less than one-half of 1 percent of the GDP in 1992.

Decentralization of governmental authority will allow local district councils to set fees for health and education services at levels appropriate to their own need. Grants to local councils will be reduced dramatically, except in the case of the smallest rural bodies. Subsidies to political parties will be terminated as well.

Capital expenditures, excluding donor funds lent to parastatals, will be limited to 3 percent of the GDP in 1992, with spending focused on core efforts to rehabilitate the infrastructure and to complete pre-existing projects. In agriculture, priority will be given to promoting the development of smallholder agriculture through enhancements of research and extension services, strengthening storage facilities for food-grain bufferstocks, and expanding diversification of cash-crop production for export. In transport, investments will focus on the rehabilitation of road and railway networks, including agricultural feeder roads. In education and health, the government has assigned priority to repair and rehabilitate existing facilities. All new capital investment projects are being subjected to strict cost-benefit analysis.

13.3 Government Revenues

A cornerstone of the government's program is comprehensive tax reform. The objective of official efforts will be to establish revenue-earning mechanisms that are buoyant, equitable, and more efficient than those of the past.

Income tax reforms introduced as part of the 1992 budget are expected to be revenue neutral, with rate reduction being offset by an expansion of the taxpayer base. Nonwage cash payments, such as housing allowances, were untaxed in the past, serving to distort wage structures and erode the income tax base. Taxation of cash allowances will be included in personal income tax reforms, with the revenue gained being used to reduce marginal rates and substantially increase the threshold level of income that has escaped taxation in the past. The new personal income tax has broader tax brackets, a top marginal rate of 35 percent, and a personal tax credit rather than a primary deductible allowance.

The government will buttress the reform of personal income taxes by ceasing to allow noncash fringe benefits as a deductible business expense. The resultant widening of the corporate tax base has been offset by a reduction in the basic company tax rate, from 45 percent to 40 percent.

By contrast, reform of the indirect tax system is expected to raise revenue by roughly one-half of 1 percent of the GDP, primarily through measures designed to harmonize and unify import and domestic sales taxation. Zambia's sales tax has been harmonized with a uniform rate of 20 percent that now applies to a single schedule of goods and services, regardless of whether they are imported or domestically produced. This implicit increase in the average level of domestic sales tax is intended as a prelude to the introduction of a broader-based value-added tax in 1993.

Additional revenue gains are expected to result from the elimination of the tax- and duty-free status of foreign exchange windows and by limiting sales tax and import duty exemptions.

13.4 Implications for American Investors

Although the MMD reform will have a jarring effect on many governmental institutions, it signals unprecedented determination by Zambian authorities to address structural and operational imbalances in a coherent manner. Within the public finance program can be found emerging opportunities that will strengthen the position of foreign investors. For example, the government is placing great emphasis on support to the diversification of export-oriented agriculture at the smallholder as well as the commercial estate level. The withdrawal of subsidies on nonexport crops and the liquidation of marketing parastatals will generate interest in new agribusinesses in production, processing, and marketing. Rehabilitation of the infrastructure will improve the operating environment for business, while creating contracting opportunities for civil engineering.

Privatization of parastatal companies will place on the market a wide variety of turnkey operations. While many of these are in need of rehabilitation and upgrading, they represent a rare opportunity for investors. Civil service and parastatal reform will also create a competitive environment for talented, well-trained technicians and managers. While the best of these should encounter no difficulty in finding jobs, the fact remains that the Zambian economy cannot yet absorb all of its best talents.

14. TAXES AND THEIR APPLICATION

14.1 Overview of Taxation Policy

Two major features have characterized the Zambian taxation system during the past 2 decades: excessive tax rates (resulting in increased evasion) and inadequate enforcement (which contributes to noncompliance). As a result of these two factors, total tax revenues as a percentage of the GDP dropped by a dramatic 66 percent between 1975 and 1990.

The immediate challenge of the current Zambian government is to improve tax revenue collection by reforming both the structure and the administration of the taxation system. The government's philosophy is not to squeeze more revenue out of a shrinking economy, but to seek to balance the need to fund government programs with the need to stimulate economic growth. The objective of this approach is to promote a fair and stable tax structure that would simultaneously facilitate the growth of the private sector and encourage compliance.

The government announced some basic tax changes during the reading of this year's budget in January, but most of the expected tax reforms are still on the drawing board. A Revenue Board, which will administer the reforms, is expected to become operational in early 1993.

14.2 Principal Taxes

Major taxes in Zambia include corporate and personal income taxes, sales taxes, import tariffs, excise taxes, stamp duties, and levies. These taxes are levied on both Zambian nationals and foreigners. Below is a brief discussion of some of the key taxes of interest to foreign investors. The rates quoted were effective as of April 1992, but many are expected to change by the time tax reforms are in place in 1993.

14.3 Taxes on Corporate Income

Company Tax

Corporate income tax is charged on gross income, including sales revenues, interest, most dividends, and royalties. No tax is charged on increases in inventory valuation or capital gains.

Manufacturing companies are taxed at the rate of 40 percent, down from 45 percent in 1991. The taxation rate for other companies, except banks, remains at 40 percent. Banks are charged income tax at the rate of 40 percent for the first K10 million ($80,000) and at 45 percent for income in excess of this figure. Before April 1992, bank tax rates were 45 percent for the first K10 million and 52.5 percent for excess income.

The provision of fringe benefits to employees in forms other than direct cash payments (such as subsidized housing or company cars) is no longer deductible for income tax purposes. Such benefits are taxed by the employer. Foreign companies incorporated in Zambia are taxed at the same rate as Zambian companies.

Mining and Mineral Export Taxes
Mining companies are subject to two types of taxes other than income tax: the mining tax and the mineral export tax. The mining tax is levied on mining revenue and is deductible from income for income tax purposes. Revenues from minerals other than copper are taxed at the rate of 20 percent, with gemstones at 15 percent and precious metals at 10 percent. There is no mining tax on copper, because of the government's dominance of that sector. A mineral export tax of 13 percent is levied on the value of all export minerals, including those subject to the mining tax.

Withholding Tax
Contractors and suppliers are levied withholding tax at 15 percent, down from 25 percent prior to 1992. The use of exemption certificates for the purpose of tax withholding has been abolished. Withholding tax is also charged at the same rate on dividends received from Zambian companies, but not on those paid by nonresident companies.

Tax on Interest Income
Interest income in excess of K20,000 ($160) is taxed at a flat rate of 10 percent. The tax is withheld at source by financial institutions. There is no tax on pension funds.

Sales Tax
The sales tax is a flat tax of 20 percent, charged on locally manufactured goods and on local professional, hotel, restaurant, telecommunications, and other services. This tax is expected to be replaced by a comprehensive value-added tax (VAT) in 1993.

Customs Tariffs
With very few exceptions, the top import duty rate has been cut in half since 1991, from 100 percent to 50 percent, and the minimum rate raised from zero to 15 percent. The majority of goods now fall into three rate categories—15, 30, and 50 percent. "Essential" goods, such as crude oil, medical supplies, agricultural equipment, manufacturing equipment, fertilizers, and most educational materials, enter Zambia duty free.

The following are some general examples of the average import duty rates:

Most machinery and vehicles	15 to 30 percent
Office equipment and computers	15 to 30 percent
Food items	30 to 100 percent
Consumer goods	30 to 100 percent

Excise Duties
Excise duty is charged on a few items, such as sugar, wine, beer, and cigarettes. Duties on these items apply whether the product is locally manufactured or imported.

Selective Employment Tax
The selective employment is a flat tax on expatriate employees payable by employers. The rate is 20 percent of the expatriate employee's salary. Expatriate employees in the agricultural sector are exempt.

Stamp Duties
Stamp duties are taxes applied to most legal and commercial documents. They are payable in cases of all registration documents presented and also on transfers of most movable and immovable property, usually by the transferee.

Other Levies
Other forms of business taxes include various trading licenses, training and education levies, and real estate taxes (collected by local authorities).

14.4 Taxes on Personal Income

Foreign employees, whether employed by Zambian or non-Zambian firms, must pay taxes on all income and fringe benefits earned in Zambia. They are also liable to all withholding taxes applicable to Zambians on a variety of income sources.

Until April 1992, personal income tax was levied in seven progressive tax bands ranging from 5 percent to 50 percent. There was a personal primary allowance of K12,000.

Beginning April 1, the primary tax exempt allowance was raised to K72,000, the top tax rate lowered to 35 percent, and the bottom rate raised to 15 percent. Only income above K72,000 is presently taxed. Taxable income will be taxed in three bands as follows:

First K50,000	15 percent
Next K50,000	25 percent
The excess above K100,000	35 percent

The penalty for withholding the payment of taxes has been raised dramatically to discourage evasion. Tax evaders will now be charged monthly penalty interest at a rate of 5 percent of outstanding taxes plus interest, compounded to 72 percent a year. This is in addition to any other penalties, such as fines or custodial sentences that may be meted out by the courts.

For all but exempt individuals—such as representatives of foreign governments and other international organizations with diplomatic status and persons with incomes of less than K72,000 a year—no person residing or working in Zambia is allowed to leave the country without a certificate of clearance issued by the Department of Taxes.

14.5 Depreciation

For most business operations, it is possible to depreciate the book value of assets for tax purposes. The depreciation is charged against operating profits and assets written down to residual value over their estimated useful lives. Losses may be carried forward indefinitely, but they can only be deducted from income from the same source.

Buildings can be depreciated over a period of 10 years. Zambia allows an accelerated depreciation of plant and machinery, commercial vehicles, and implements over 4 years. Other types of vehicles are depreciated over 5 years. Farmers are allowed to expense the costs of farm improvements and farm works in the year in which the investment was made.

14.6 Tax Treaties

Zambia currently does not have a tax treaty with the United States. The previous tax convention between the two countries was terminated in 1984. A new treaty is under consideration but has not yet been concluded.

14.7 Implications for American Investors

The changes made recently in Zambia's tax regime along with planned reforms will improve the nation's desirability as an investment site for local and overseas business. American investors should consider the implications of possible double taxation until Zambia concludes a new tax treaty with the United States.

As a result of the statist policies of the former UNIP government, Zambia has not developed a full complement of tax lawyers and accountants. Potential investors should expect to seek such services from outside Zambia, at least in the initial years of new venture operations.

Appendix A

THE INVESTMENT ACT, 1991

This document was rekeyed for clarity.

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THE INVESTMENT ACT, 1991

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

PART II

INVESTMENT CENTRE AND BOARD

PART III

PROCEDURES FOR INVESTMENT

Single copies of this Act may be obtained from the Government Printer, P.O. Box 30136, Lusaka. Price K10.

GOVERNMENT OF ZAMBIA

ACT

No. 19 of 1991

Date of Assent: 8th August, 1991

An Act to revise the law relating to investment in Zambia and in particular to constitute the Investment Centre; to establish the Investment Board; to define the functions of the Centre and Board; to revise the provisions relating to the procedures for dealing with applications for investment licences; to provide for investment guarantees; to repeal the Investment Act, 1986, and to provide for matters connected with or incidental to the foregoing.

6th September, 1991

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Investment Act, 1991. Short title

2. Nothing in this Act shall apply to— Application

(*a*) a business enterprise which does not employ any wage earner or salaried person;

(*b*) a "Contractor" as defined in the Petroleum (Exploration and Production) Act, 1985; Act No. 13 of 1985

(*c*) a person carrying on a mining activity relating to copper, lead, zinc, or cobalt in accordance with the Mines and Minerals Act. Cap. 329

3. In this Act, unless the context otherwise requires— Interpretation

"Board" means the Investment Board for the Centre established under section *five*.

"business enterprise" includes any undertaking carrying on business in the field of manufacturing, mining and processing of gemstones, agriculture, transport, tourism and other like services;

"Centre" means the Investment Centre constituted under section *four*;

"Chairman" means the person appointed Chairman of the Board under section *six*.

"investment" means contribution of capital, in cash or in kind, by an investor to a new business enterprise, to the expansion or rehabilitation of an existing enterprise or to the purchase of an existing enterprise from the State;

"investor" means any person investing in Zambia in accordance with the provisions of this Act;

"manufacturing" means transforming on a commercial scale, of raw materials into finished or semi-finished products, and includes the assembling of inputs into finished or semi-finished products, but does not include mining;

"member" means a member of the Board;

"non-traditional products" means products other than copper, lead, zinc or cobalt;

"rural area" means any area in Zambia other than Kabwe Urban District, Kafue Township, Livingstone District, Lusaka Urban District, and the Copperbelt Province excluding therefrom Ndola Rural District.

PART II

INVESTMENT CENTRE AND BOARD

Constitution and functions of Investment Centre

4. (1) There is hereby constituted the Investment Centre for the promotion, co-ordination, regulation and monitoring of investments and rendering, as a one-stop facility, support and services to investors in Zambia.

(2) Notwithstanding the generality of subsection (1) the functions of the Centre shall be to—

(*a*) assess and process applications made by persons intending to invest in Zambia;

(*b*) liaise with Ministries, Government departments, local authorities or other bodies in order to assist an investor with timely compliance with any formalities and to help secure any permission, authorisation, licence, land and other things required for the purpose of the business enterprise;

(*c*) issue Investment Licences;

(*d*) keep records of all technology transfer agreements relating to investments under this Act;

(*e*) monitor the performance of enterprises approved by it and enforce compliance with the terms and conditions of the investments approved under this Act;

(*f*) ensure that holders of investment licences secure all licences and approvals required to enable any investment licence issued by the Centre to have full effect;

(*g*) register manufacturers and issue certificates.

(*h*) exercise all functions and powers and perform all duties which under or by virtue of this Act or any other written laws are or may be vested or delegated to it; and

(*i*) do all such things as are necessary or incidental or conducive to the functions specified in this Act.

(3) The functions of the Centre relating to paragraphs (*a*) to (*g*) of subsection (2) shall be exercised by the Director-General.

Establishment of Board

5. There is hereby established the Investment Board for the Centre which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

Functions and composition of Board

6. (1) Subject to the provisions of this Act, the Board shall be responsible for the discharge of the functions and business of the Centre and shall be charged with the general control of the superintendence of the property and policy of the Centre in such manner as appears to the Board to be in the best interest of the Centre.

(2) The Board shall consist of—

(*a*) a representative from each of the Ministries responsible for—

(i) finance;

(ii) planning;

(iii) commerce;

(iv) industry;

(v) agriculture;

(vi) transport;

(vii) tourism;

(viii) Legal Affairs.

(*b*) a representative of the Bank of Zambia;

(*c*) the Director-General of the Centre; and

(*d*) three persons representing the Zambia Confederation of Chambers of Commerce and Industry, the Commercial Farmers Bureau and the Zambia Association of Manufacturers;

(*e*) three reputable businessmen appointed by the Minister.

(3) The members referred to in paragraphs (*a*), (*b*), and (*d*) shall be nominated by their respective organisations and shall be appointed by the Minister.

(4) The Chairman and the Vice-Chairman shall be elected by the Board from amongst its members other than the Director-General.

Tenure of office and vacancy

7. (1) The members referred to in section *six* other than the Director-General shall hold office for a period of three years from the date of appointment and may be re-appointed upon the expiration of that term.

(2) A member referred to in paragraph (*b*), (*c*) and (*d*) of subsection (1) of section *six* may resign upon giving one month's notice in writing to the organisation which nominated him and to the Minister and may be removed by the Minister at any time.

(3) The office of a member referred to in subsection (1) shall become vacant—

(*a*) upon his death;

(*b*) if he is absent without reasonable excuse from three consecutive meetings of the Board of which he has had notice;

(*c*) if he is lawfully detained or his freedom of movement is restricted, for a period exceeding six months;

(*d*) on ceasing to be a representative of the organisation which nominated him; or

(*e*) if he is an undischarged bankrupt.

Seal of Board

8. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman and the Secretary or one other person authorised in that behalf by a resolution of the Board.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Remuneration and allowances

9. A member shall be paid such remuneration or allowances as the Board may, with the approval of the Minister, determine.

Proceedings of Board

10. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every two months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Nine members shall form a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board—

(*a*) the Chairman; or

(*b*) in the absence of the Chairman, the Vice-Chairman; or

(*c*) in the absence of the Chairman and Vice-Chairman such member as the members present may elect for the purpose of the meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(9) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

Committees of Board

11. (1) The Board may, for the purpose of performing its functions under this Act establish committees and delegate to any such committee such of its functions as it thinks fit.

(2) The Board may appoint as members of a committee established under subsection (1) persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board any committee established under subsection (1) may regulate its own procedure.

Disclosure of interest

12. (1) If any person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter that person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of or vote on, any question touching such matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Immunity of members

13. No action or other proceedings shall lie or be instituted against any member or member of a committee for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Director-General

14. (1) The Board shall appoint on such terms and conditions as it may determine, a Director-General who shall be the chief executive officer of the Board, and shall be responsible for the administration of the Centre and the implementation of the decisions of the Board.

(2) The Director-General may, subject to the approval of the Board, establish such organisational structures for the Centre as he may consider necessary for the discharge of the functions of the Centre.

Secretary and other staff

15. (1) There shall be a secretary to the Board who shall be appointed by the Board on such terms and conditions as the Board may determine.

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the Board under the general supervision of the Director-General.

(3) The Board may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

Prohibition of publication or disclosure of information

Unauthorized persons

16. (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act.

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand kwacha or to imprisonment for a term not exceeding twelve months, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand kwacha or to imprisonment for a term not exceeding twelve months or to both.

PART III

PROCEDURES FOR INVESTMENT

17. (1) Any person may apply to invest in Zambia in accordance with the conditions of an investment licence issued under this part. Application for investment licence

(2) An application for an investment licence shall be made in writing to the Director-General and shall be accompanied by the prescribed fee.

(3) An application for an investment licence shall contain the following information:

(*a*) the name and address of the proposed business enterprise, its legal form, the names, addresses and nationalities of its directors, shareholders, or partners indicating the number of shares held by each one in the enterprise;

(*b*) the nature of the proposed activity and the location where such activity is to be carried out;

(*c*) the proposed capital structure, amount of the investment, number of persons to be employed and the projected sales revenue over five ensuing years;

(*d*) the qualifications, know-how, experience and other relevant particulars of the applicant and his employees to carry out the business activity;

(*e*) the incentives for which the applicant expects to qualify;

(*f*) information on technology transfer agreements entered into or to be entered into; and

(*g*) such other information relating to the validity of the project or other matters as the applicant considers relevant to the application.

(4) If an applicant for an investment licence does not provide the information required under subsection (3), or if clarification is necessary on any point, the applicant may be called upon to provide such information, clarification or other particulars to the Director-General as are necessary to complete such application.

18. (1) The Director-General shall on receipt of an application investigate and consider the application and shall within thirty days of such receipt grant or refuse the application. Processing of applications

(2) The Director-General shall grant an application and issue an investment licence in respect thereof if he is satisfied that—

(*a*) the application is in accordance with the provisions of this Act;

(*b*) the activity planned to be undertaken by the business enterprise is not unlawful; and

(*c*) the activity concerned is in the interests of Zambia generally.

(3) In considering an application submitted under this Part, the Director-General may make such consultations as are necessary and relevant to that application.

(4) Where the Director-General rejects an application for an investment licence he shall within seven days of such decision inform the applicant in writing of this decision and the reasons for the rejection.

Investment licence

19. (1) An investment licence issued under section *eighteen* shall—

(*a*) authorise the holder thereof to make all necessary arrangements for the commencement of the business enterprise described therein;

(*b*) contain terms and conditions of the licence and incentives, if any; and

(*c*) have unlimited period of validity, subject to it being utilised within twelve months from the date of issue.

(2) The Director-General shall, within one month from the date of issuance of the investment licence, obtain for the holder of the investment licence, any permission, authorisation, licence and other registration required for the purpose of operating the business enterprise to which the investment licence relates.

Terms and conditions of investment licence

20. The terms and conditions of every investment licence shall include an undertaking by the investor to maintain proper financial and accounting records and to permit the Director-General or any duly appointed agent access to such information on the operations of the business enterprise as the Minister may by statutory instrument prescribe.

Notification of commencement of business

21. The holder of an investment licence shall, as soon as he commences operations of a business enterprise to which the licence relates, notify the Director-General in writing of the date of commencement of business; and the Board shall forthwith verify such commencement of operations.

Variation of investment licence

22. (1) The holder of an investment licence may at any time during the validity of the licence, apply to the Director-General for variation of the terms and conditions of the licence, the incentives granted thereunder or any matter relating to the licence.

(2) The Director-General shall consider the application referred to in subsection (1) and may after negotiations if any, grant or refuse such application.

Extension and surrender of licence

23. (1) Where the holder of an investment licence is unable to commence operations within twelve months from the date of issue, he may, at least sixty days before the expiry of his licence, apply to the Director-General for an extension of that period, giving reasons thereof; and the Director-General shall, if satisfied with the reasons, extend the validity for such period as he may consider reasonable.

(2) Where the holder of an investment licence decides not to continue with any project to which the licence relates, he shall so notify the Director-General in writing and shall agree with the Director-General the terms and conditions of the surrender of the licence with particular reference to anything done or any benefit obtained under the licence.

(3) Where the period of twelve months from the date of issue of an investment licence has expired without the holder of the licence commencing business operations and no application for its extension has been made in accordance with subsection (2) the licence shall lapse and shall subject to section *twenty-six* be cancelled and the holder of the licence shall cease to be entitled to any benefits obtainable under the licence.

Transfer of investment licence

24. (1) An investment licence shall not be transferable without the prior approval of the Director-General and such approval shall not be unreasonably withheld.

(2) Every application for approval to transfer an investment licence shall be made to the Director-General in such manner as the Minister may prescribe and the Director-General may, approve the application on such terms and conditions as he may determine.

Amendment of licence

25. The Director-General may amend an investment licence issued under section *eighteen*—

(*a*) where he is satisfied that some other person has succeeded to the interest in the enterprise of the holder of the investment licence, by substituting for the name of the holder the name of the successor;

(*b*) where the name of the enterprise is altered, by substituting the name so altered;

(*c*) with the written consent of the holder, by varying the relevant foreign currency, if any;

(*d*) by extending the period during which the investment is to be made;

(*e*) by varying the amount of the investments;

(*f*) where the investment consists of the acquisition of shares or stock of an enterprise, by varying the number or amount and the description thereof; or

(*g*) with the written consent of the holder in such other manner as may be necessary or desirable.

Suspension or cancellation of investment licence

26. (1) The Director-General shall suspend or cancel any investment licence if the holder of the licence–

(*a*) obtained such licence on the basis of fraud, deliberate or negligent submission of false or misleading facts or statements;

(*b*) transferred or otherwise assigned the licence without the prior approval of the Board in contravention of section *twenty-four*;

(c) fails without reasonable cause to establish the enterprise within the time stipulated in the licence or any extension thereof; or

(d) fails without reasonable cause to comply with the terms and conditions of the licence, or the provisions of the Act.

(2) The Director-General shall, before suspending or cancelling an investment licence in accordance with subsection (1), give written notice of his intention to suspend or cancel the licence and the grounds thereof to the holder of an investment licence and require the holder of the licence to show cause within a period of not less than thirty days why the licence should not be suspended or cancelled.

(3) The Director-General shall not suspend or cancel an investment licence under this section if the holder of the licence takes remedial measures to the satisfaction of the Director-General within the period of thirty days referred to in subsection (2).

(4) If the holder of an investment licence notified under subsection (2) fails to show cause to the satisfaction of the Director-General or does not make remedial measures to the satisfaction of the Director-General within the time specified in that subsection, the Director-General shall suspend or cancel the licence.

(5) Where an investment licence is suspended, the holder of the licence shall cease to be entitled to the rights and benefits conferred under this Act for the period of the suspension.

(6) Where an investment licence is cancelled the holder of the licence shall cease to be entitled to the benefits conferred under this Act with effect from the date of such cancellation and shall return the licence to the Director-General.

(7) Any person who is aggrieved by any decision taken by the Director-General under this section may appeal to the Board and thereafter may submit the matter to arbitration procedures set out in section *thirty-seven*.

Register of applications and investment licences

27. The Secretary shall register and maintain proper records of—

(a) applications for investment licences;

(b) enterprises in respect of which investment licences have been issued, the levels of investments and whether the licences were in respect of a new enterprise or the rehabilitation or expansion of existing enterprises;

(c) variations, amendments, suspensions or cancellations of licences;

(d) particulars of transfer of technology agreements or contracts; and

(e) other particulars relating to investment licences as may be necessary or desirable.

Registration of manufacturers

28. (1) Subject to the provisions of this Act, no person shall manufacture any product, whether intended for sale in or outside Zambia, unless he has been registered in accordance with this Part.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding one hundred thousand kwacha.

Registration of holders of investment licences

29. (1) An investor who applies for an investment licence under this part in respect of a manufacturing enterprise shall not be required to make a separate application under this Part if, in an application under this Part, he provides the relevant information relating to the registration of that manufacturing enterprise as required by this Part.

(2) The Director-General shall cause to be registered every manufacturing enterprise which is the subject of an investment permit under the Investment Act, 1986, and shall cause a certificate of registration to be issued to such enterprise. Act No. 5 of 1985

Application for registration

30. (1) An application for registration as manufacturer shall be made to the Director-General in the prescribed form and shall—

(*a*) describe the product or products which the enterprise intends to manufacture;

(*b*) describe the place or places where manufacturing is to be carried on; and

(*c*) provide such other information as may, from time to time, be prescribed.

(2) If an application under subsection (1) does not provide the information required, or if clarification is necessary on any point, the applicant may be called upon to provide such information, clarification or other particulars as are necessary to complete such application.

(3) Within six weeks of the receipt of a completed application under subsection (1), the Director-General shall consider the application and shall, if he finds that—

(*a*) the application is in accordance with the provisions of this Act; or

(*b*) the activity planned to be undertaken by the manufacturing enterprise is not unlawful or contrary to the interests of Zambia;

cause the manufacturing enterprise to be registered and shall cause a certificate of registration to be issued.

(4) An applicant under subsection (1) who has not received the decision of the Director-General within two months of applying or who is aggrieved by any decision of the Director-General made in exercise of his powers under this section, may appeal to the Board and may thereafter appeal to the High Court.

(5) The Director-General shall maintain a register of all manufacturing enterprises in respect of which a certificate of registration has been issued under this Part, and shall record in such register such details relating to each manufacturer and the products manufactured as the Director-General may, from time to time, determine.

PART IV

INVESTMENT INCENTIVES

Enterprises which qualify for incentives

31. (1) The investment incentives provided in this Part apply to any investor who holds an investment licence issued under section *eighteen* and whose enterprise—

(*a*) is an exporter of non-traditional products or services which result in net foreign exchange earnings;

(*b*) produces products for use locally in agriculture and the production of agricultural commodities or other agro related products for export;

(*c*) is engaged in tourist activities resulting in foreign exchange earnings in excess of twenty-five per centum of the gross annual earnings of the business unit;

(*d*) is an import-substitution industry with a significant proportion of local raw material usage which results in net foreign exchange savings;

(*e*) is located in a rural area.

(2) If a business enterprise which was operating on the date of coming into force of this Act brings into operation, after that date, a new sub-unit which meets any of the criteria set out in subsection (1) then such sub-unit shall qualify for incentives under this Part if separate accounts are maintained for a reliable segregation of its activities from those other units of the main enterprise.

Common incentives

32. (1) An investor who qualifies for incentives under section *thirty-one* shall be entitled to—

(*a*) exemption from customs duties and sales tax on all machinery, equipment and parts required for the establishment, rehabilitation or expansion of an enterprise for use exclusively in that enterprise;

(*b*) exemption from tax on dividends for a period of seven years from the date of commencement of business;

(*c*) exemption from the payment of tax on income for companies for a period of three years from the date of commencement of business and thereafter exemption from the payment of such tax for the following two years at the rate of seventy-five per cent;

(*d*) exemption from the payment of selective employment tax for a period of seven years;

(*e*) retention of seventy per cent of its gross foreign currency earnings for the first three years and—

(i) sixty per cent of such earnings for the following two years;

(ii) fifty per cent of such earnings for the remaining period of validity of the investment licence:

Provided that the earnings retained under this paragraph shall be for use in acquiring the inputs referred to in subsection (1) of section *thirty-one* and for overseas remittances in respect of debt servicing, profits, dividend payments and settlement of external obligations of the business.

(2) In addition to the incentives described in subsection (1) the Director-General shall, on request and on behalf of a holder of an investment licence who qualifies for incentives under section *thirty-one*, apply to the appropriate authority and obtain the necessary hectarage of land required for the operations of the enterprise to which the licence relates on such terms and conditions as that authority may determine.

Additional incentives for certain exports

33. An enterprise which qualifies for incentives under paragraph (*a*) of subsection (1) of section *thirty-one* shall, in addition to the incentives specified in section *thirty-two*, be entitled to benefit from the Export Revolving Fund established by the Bank of Zambia to provide foreign exchange to finance the import content of any confirmed export order:

Provided that the enterprise shall only be entitled to foreign exchange from the export Revolving Fund under this subsection for the import content which does not exceed sixty per cent of the value of the product to be exported.

Additional incentives for agricultural enterprises

34. An enterprise which qualifies for incentives under paragraph (*b*) of subsection (1) of section *thirty-one* shall in addition to the incentives specified in section *thirty-two* be entitled to the following incentives—

(*a*) access to foreign exchange in proportions and according to such conditions as may be determined by the Board in consultation with the Bank of Zambia for the producers of maize, wheat, barley, soya beans, livestock, fishery, and any other agricultural product which may be prescribed in consultation with the ministry responsible for agriculture;

(*b*) in the case of foreign investment in agriculture, externalisation of 12.5 per cent of the annual after tax profit attributable to the foreign investment;

(*c*) in the case of growers of specialised crops prescribed in consultation with the ministry responsible for agriculture, a deduction from income of ten per cent of the gross investment incurred in local currency during the material year as development income.

Additional incentives for tourist enterprises

35. An enterprise which qualifies for incentives under paragraph (*c*) of subsection (1) of section *thirty-one* shall, in addition to the incentives specified in section *thirty-two* be entitled to the following incentives—

(*a*) priority in the allotment of land by relevant authorities for the construction of hotels, chalets, camps and other related facilities;

(*b*) priority in the provisions of water power, transportation and communication services and facilities required for the activities of such enterprise at such rates as that accorded to Government enterprises.

Additional incentives for import substitution industries

36. An enterprise which qualifies for incentives under paragraph (*d*) of subsection (1) of section *thirty-one* shall in addition to the incentives specified in section *thirty-two* have access to any revolving fund which may be established by the Government for research and development.

Incentives for small scale and village enterprises Act No. 18 of 1981

37. A small scale enterprise or a village enterprise registered under the Small Industries Development Act, 1981, shall be entitled to the following incentives:

(*a*) exemptions from payment of tax on income for—

(i) the first three years of operations for an enterprise operating in an urban area;

(ii) the first five years of operations for an enterprise in a rural area;

(*b*) exemption from customs duties and sales tax payable on imported equipment to be used in the enterprise;

(*c*) operation of a manufacturing enterprise for the first five years without a manufacturing certificate required for such an enterprise under any law;

(*d*) for an enterprise with an investment in plant and machinery of less than five hundred thousand kwacha, exemption from the payment of licensing fees required for such an enterprise under any law; and

(*e*) exemption from the payment of rates on factory premises for the first five years.

Incentives not derogation from any other written law

38. The incentives provided for under this Act shall be cumulative and in addition to and not in derogation from any other incentives provided for under any other written law.

Economic development or export free zone

39. (1) The Minister may by statutory instrument designate any area in Zambia to be—

(*a*) an economic development zone; or

(*b*) an export free zone.

(2) Where an area has been designated as an economic development zone or an export free zone both under subsection (1), any investment made in such area shall be accorded such incentives

on such terms and conditions as the Minister may prescribe which incentives shall not be less favourable than those conferred to the holders of investment licence under the Act.

PART V

INVESTMENT GUARANTEES

Protection from acquisition and settlement of disputes

40. (1) No property of any description shall be compulsorily acquired, and on interest in or right over property of any description of an investor shall be compulsorily acquired except under an Act of Parliament relating to the compulsory acquisition of the specific property which provides for payment of compensation in respect thereof; any compensation payable under the provision of this section shall be made promptly at the market value and shall be fully transferable at the ruling exchange rate in the currency in which the investment was originally made, without deductions for taxes, levies, and other duties except where those are due.

(2) Where any dispute arises between an investor and the Board or the Government or any agency of the Government all efforts shall be made through mutual discussions to reach an amicable settlement within ninety days from the date of the disputes.

(3) Where any dispute between an investor and the Board, or the Government or any agency of the Government is not settled amicably as described under subsection (2) the dispute may be referred to an arbitration board to be constituted in accordance with subsection (4) or to the High Court.

(4) An arbitration board referred to in subsection (3) shall comprise—

(*a*) one person appointed by the investor;

(*b*) one person appointed by the Board or the Government; and

(*c*) one person appointed by the two parties to the dispute.

(5) The arbitration board established under subsection (4) shall make its decision within one month from the date of receipt of dispute.

(6) Where the arbitration board established under subsection (4) fails to settle the dispute within the period specified in subsection (5) the dispute may be referred to—

(*a*) the International Centre for the Settlement of Investment Disputes;

(*b*) the United Nations Commission on International Trade Law; or

(*c*) any other international machinery for the settlement of investment disputes agreed to by the parties to the dispute.

Transfer of funds Cap. 593

41. Notwithstanding the provisions of the Exchange Control Act, or any other written law relating to externalisation of funds, the holder of an investment licence shall be entitled in respect of an enterprise to which the licence relates to transfer out of Zambia in foreign currency and after payment of the relevant taxes—

(*a*) dividends or net profits of up to seventy-five per cent of the annual after tax profit attributable to paid up foreign capital;

(*b*) the principal and interest of any foreign loan specified in the investment licence with the approval of the Bank of Zambia;

(*c*) fees, royalties and charges approved by the Bank of Zambia in respect of any agreement;

(*d*) the net proceeds of sale or liquidation of the enterprise attributable to foreign investment or retained earnings; or

(*e*) any proceeds arising from an arbitration award as a result of proceedings under this Act.

Guarantee against adverse investment legislation

42. From the commencement of this Act, where any law is made which is such that the benefits conferred under this Act would be less favourable, the Board shall adjust such benefits correspondingly.

PART VI

FINANCIAL AND OTHER PROVISIONS

Funds of Board

43. The funds of the Board shall consist of such moneys as may—

(*a*) be appropriated by Parliament for the purposes of the Board;

(*b*) be paid to the Board by way of grants or donations; and

(*c*) vest in or accrue to the Board.

(2) The Board may—

(*a*) accept money by way of grants or donations from any source in Zambia;

(*b*) raise money by way of loans or otherwise from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia, such moneys as it may require for the discharge of its functions; and

(*c*) charge and collect fees in respect of programmes publications, seminars, consultancy services, and other services provided by the Board.

(3) There shall be paid from the funds of the Board—

(*a*) the salaries, allowances and loans of the staff of the Board;

(*b*) such reasonable travelling, transport and subsistence allowance for members or members of any committee of the Board when engaged on business of the Board at such rates as the Board may, with the approval of the Minister, determine; and

(*c*) any other expenses incurred by the Board in the performance of its functions.

(4) The Board may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

44. The financial year of the Board shall be the period of twelve months ending on 31st December, in each year. Financial year

45. (1) The Board shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Board shall be audited annually by independent auditors appointed by the Board with the approval of the Minister.

(3) The Auditors' fees shall be paid by the Board.

46. (1) As soon as practicable, but not later than six months after the expiry of the financial year, the Board shall submit to the Minister a report concerning its activities during that financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and there shall be appended to the report—

(*a*) an audited balance sheet;

(*b*) an audited statement of income and expenditure; and

(*c*) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly.

47. An investor who, immediately prior to the commencement of this Act holds— Transitional provisions

(*a*) a valid investment licence or permit, or certificate of incentives or manufacturing licence under the Investment Act, 1986; or

(*b*) any other valid certificate or licence issued under any other written law with respect of an enterprise recognised by the Board;

shall give written notice to that effect to the Board within six months after the commencement of this Act with a certified copy of the licence, permit or certificate as the case may be and the rights and benefits accruing to the holder of such licence, permit or certificate of incentives shall continue in accordance with the provisions of that Act.

Investment to rehabilitate an enterprise

48. (1) A holder of an investment licence may invest in an enterprise for rehabilitation or expansion of the enterprise and shall by notice to the Board apply to have his investment licence amended.

(2) Where on an application under subsection (1) the Board is satisfied with the amount of investment for the rehabilitation or expansion of the enterprise, it shall amend the investment licence accordingly.

(3) Except where an investment licence has been amended to include the rehabilitation of an enterprise under this section, the holder of an investment licence shall not be entitled to any incentives or other benefits under this Act for the rehabilitation or expansion of that enterprise.

Offences and penalties

49. (1) Any person who:

(*a*) deliberately submits false or misleading facts or statements to obtain an investment licence or benefit under this Act; or

(*b*) applies any benefit conferred by or under this Act for a purpose other than those for which the benefit was conferred;

shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable on conviction of a fine not exceeding one hundred thousand kwacha.

Regulations

50. In consultation with the Board, the Minister may by statutory instrument, prescribe—

(*a*) anything which by this Act is required or permitted to be prescribed;

(*b*) any forms for the purposes of the Act;

(*c*) any fees payable in respect of any service provided by the Centre through the Board;

(*d*) designated areas for the purposes of this Act;

(*e*) for the collection of industrial data subject to the relevant laws on industrial property rights;

(*f*) such other matters as are necessary or conducive to the better carrying out of the purposes of this Act.

Repeal of Act No. 5 of 1986

51. (1) Subject to subsection (2) the Investment Act, 1986 is hereby repealed.

(2) Notwithstanding the repeal of the Investment Act, 1986—

(*a*) any agreement executed under that Act shall continue in force as if made under this Act;

(*b*) any applications pending before the Investment Coordinating Committee under that Act shall be deemed to have been made to the Board under this Act;

(*c*) any registration done, any other right or benefits accruing, or any liabilities suffered, under that Act shall continue in accordance with this Act;

(*d*) any regulations made or directions given under this Act shall unless contrary to this Act continue in force until revoked as if made or given under this Act.

Appendix B

THE PRIVATISATION ACT, 1992

This document was rekeyed for clarity.

Supplement to the Republic of Zambia Government Gazette dated the 4th July, 1992

THE PRIVATISATION ACT, 1992

[No. 21 of 1992 455

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Single copies of this Act may be obtained from the Government Printer, P.O. Box 30136, Lusaka. Price K15

PART IV

FINANCIAL AND OTHER PROVISIONS

GOVERNMENT OF ZAMBIA

ACT

Date of Assent: 3rd July, 1992

An Act to provide for the privatisation and commercialisation of State owned enterprises; to provide for the establishment of the Zambia Privatisation Agency and to define the functions of the Agency; to provide for the sale of shares in State owned enterprises; and to provide for matters connected with or incidental to the foregoing.

4th July, 1992

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Privatisation Act, 1992. Short title

2. In this Act, unless the context otherwise requires— Interpretation

"Agency" means the Zambia Privatisation Agency established under section *three*;

"bank" means a commercial bank registered under the Banking Act; Cap. 700

"commercialisation" means the reorganisation of specified Government departments into commercialised enterprises which shall operate as profit making commercial ventures without the subvention of the Government and "commercialise" shall be construed accordingly;

"consultant" means any person employed by the Agency to undertake any work of a specialised nature connected with the privatisation programme in Zambia and shall include merchant banks, public accountants, lawyers and valuers;

"current value" means the market value of a State owned enterprise within three months of the completion of the sale;

"divestiture" means the disposing of the whole or part of the assets and shares of a State owned enterprise;

"divesture sequence plan" means a list of State owned enterprises, as approved by Cabinet, categorised according to the sequence in which the whole or part of their shares will be disposed of over the period of the privatisation programme;

"established fund" includes pension funds, contributory social security schemes, compensation funds and superannuation funds;

"financial institution" means a company, or body not being a bank, which carries on financial business and which is registered under any other law;

"foreign investor" means a person, being a citizen of Zambia or not, who brings into Zambia foreign exchange for the purchase of shares in a State owned enterprise or for additional investment in a State owned enterprise;

"golden share" means a share with special rights to enable the Government in the national interest to intervene in the operations of a company which intervention is caused by specific actions undertaken by the company;

"investor" means an individual, company, established fund, mutual fund, financial institution or foreign government intending to invest in a State owned enterprise under this Act but does not include the Local Government, the Government of the Republic of Zambia and a State owned enterprise;

"mutual fund" means an investment fund which purchases shares in a portfolio of companies and subdivides such portfolio into individual units for sale of such units to investors;

"privatisation" means the transferring to the private sector of part or the whole of the equity or other interest held by the Government, directly or indirectly, in a State owned enterprise wholly or partly owned by the Government and "privatise" shall be construed accordingly;

"Privatisation Revenue Account" means an account established under section *thirty-nine*;

"Privatisation Trust Fund" means a fund established under section *twenty-nine*;

"property" means all property movable or immovable, and all estates, interests, easements, and rights, whether legal or equitable into or out of property, choses-in-action, money and good-will;

"specified Government department" means a department specified by the Minister under section *thirty-seven*;

"State owned enterprise" means a corporation, board, company, parastatal or body in which the Government has direct or indirect ownership, equity or interest and includes partnerships, joint ventures or any other form of business arrangement or organisation in which the Government has direct or indirect interest but does not include a Government department;

"stocks and shares" includes loans, stocks, debentures and debenture stock and options on any stocks, shares, loan, stock, debentures or debenture stock and rights, in relation to State owned enterprises;

"stock broker" means a person who carries on the business of buying and selling stocks or shares for and on behalf of other persons.

PART II

THE ZAMBIA PRIVATISATION AGENCY

Establishment of Agency

3. There is hereby established the Zambia Privatisation Agency which shall be a body corporate with perpetual succession and a common seal capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

Seal of Agency

4. (1) The seal of the Agency shall be such device as may be determined by the Agency and shall be kept by the Director.

(2) The Agency may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman and the Secretary or any other person authorised in that behalf by a resolution of the Agency.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Agency by the Secretary or any other person generally or specifically authorised by the Agency in that behalf.

(5) Any document purporting to be a document under the seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be deemed to be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Composition of Agency

5. (1) The Agency shall consist of the following members who shall, subject to scrutiny by a Select Committee of the National Assembly and ratification by the National Assembly, be appointed by the President:

(*a*) the Permanent Secretary in the Ministry responsible for commerce, trade and industry;

(*b*) the Permanent Secretary in the Ministry responsible for finance;

(*c*) the Attorney-General;

(*d*) a representative of the Zambia Confederation of Chambers of Commerce and Industry;

(*e*) a representative of the Zambia Congress of Trade Unions;

(*f*) a representative of the Zambia Federation of Employers;

(*g*) a representative of the Law Association of Zambia;

(*h*) a representative of the Zambia Institute of Certified Accountants;

(*i*) the Dean of the School of Business of the Copperbelt University;

(*j*) a representative of the churches in Zambia;

(*k*) a representative of the Bankers Association of Zambia; and

(*l*) a representative of the farmers.

(2) The Chairman and the Vice-Chairman shall be elected by the Agency from amongst its members.

Provided that the Permanent Secretary in the Ministry responsible for finance and the Permanent Secretary responsible for commerce, trade and industry shall not be elected as Chairman or Vice-Chairman.

Tenure of office and vacancy

6. (1) The members, except ex-officio members, referred to in section *five* shall hold office for a period of three years from the date of nomination and shall be eligible for further nomination upon the expiration of that term.

(2) A member, except an ex-officio member, referred to in section *five* may resign upon giving one month's notice, in writing, to the organisation which nominated him and to the Minister.

(3) The office of a member, except an ex-officio member, shall become vacant—

(*a*) upon his death;

(*b*) if he is absent without reasonable excuse from three consecutive meetings of the Agency of which he has had notice;

(*c*) on ceasing to be a representative of the organisation which nominated him; or

(*d*) if he is an undischarged bankrupt.

Remuneration and allowances of Members

7. A member shall be paid such remuneration and allowances as the Agency may, with the approval of the Minister, determine.

Functions of Agency

8. (1) It shall be the function of the Agency to plan, manage, implement and control the privatisation of State owned enterprises in Zambia.

(2) Not withstanding the generality of subsection (1) the functions of the Agency shall be to—

(*a*) recommend privatisation policy guidelines to the Cabinet;

(b) implement the privatisation programme according to the policy guidelines issued by the Cabinet;

(c) oversee all aspects of the implementation of the privatisation programme in Zambia;

(d) monitor progress of the privatisation programme in Zambia;

(e) prepare the long term divestiture sequence plan and submit such plan to the Cabinet for approval;

(f) recommend to the Cabinet the most appropriate method of sale for each State owned enterprise to be privatised;

(g) carry out or cause to be carried out a valuation of a State owned enterprise that is to be privatised;

(h) set prequalification criteria for the selection of potential buyers or investors of a State owned enterprise to be privatised;

(i) evaluate offers from potential buyers with regard to the—

(i) price;

(ii) ability and commitment of buyers to develop the enterprise; and

(iii) track record of buyers and their expertise in the type of enterprise on offer;

(j) ensure that monopolies are not created in the process of privatisation;

(k) prepare or cause to be prepared the relevant documentation necessary to effect the privatisation of any State owned enterprise;

(l) seek potential investors for State owned enterprises;

(m) maintain records, safeguard information and establish administrative procedures to ensure confidentiality of information;

(n) maintain close liaison with all relevant institutions in the process of privatisation;

(o) publicise the activities of the privatisation programme; and

(p) do all such things as are necessary or incidental or conducive to the better carrying out of the functions specified in this Act.

Proceedings of Agency

9. (1) Subject to the other provisions of this Act, the Agency may regulate its own procedure.

(2) The Agency shall meet for the transaction of business at least once every two months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, the meeting of the Agency may be called by the Chairman and shall be called if not less than four members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Five members shall form a quorum at any meeting of the Agency.

(5) There shall preside at any meeting of the Agency—

(*a*) The Chairman;

(*b*) in the absence of the Chairman, the Vice-Chairman; or

(*c*) in the absence of both the Chairman and the Vice-Chairman such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Agency on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have the casting vote in addition to his deliberative vote.

(7) The Agency may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Agency but such person shall have no vote.

(8) The validity of any proceedings or decision of the Agency shall not be affected by any vacancy in the membership of the Agency or by any defect in the appointment of any member.

(9) The Agency shall cause minutes to be kept of the proceedings of every meeting of the Agency and of every meeting of any committee established by the Agency.

Committees of Agency

10. (1) The Agency may for the purpose of performing its functions under this Act establish Committees and delegate to any such committee such of its functions as it considers necessary.

(2) The Agency may appoint as members of a committee established under subsection (1) persons who are or are not members of the Agency and such persons shall hold office for such period as the Agency may determine.

(3) Subject to any specific or general direction of the Agency any committee established under subsection (1) may regulate its own procedure.

Disclosure of interest

11. If any person is present at a meeting of the Agency or any committee of the Agency at which any matter is the subject of consideration and in which matter that person or his immediate family or his professional and business partners, is directly or indirectly interested in a private or professional capacity, he shall, as soon as is practicable after the commencement of the meeting disclose such interest and shall not, unless the Agency or the committee otherwise directs, take part in any consideration or discussion of or vote on, any question touching on such matter.

PART III

ADMINISTRATION

Director of Agency

12. (1) The Agency shall appoint, on such terms and conditions as it may determine a Director who shall be the Chief Executive Officer of the Agency.

(2) The Agency may appoint, on such terms and conditions as it may determine, a Deputy Director to assist the Director.

(3) The Director or in his absence the Deputy Director, shall attend meetings of the Agency and may address such meetings, but shall not vote on any matter:

Provided that the person presiding at any meeting of the Agency, may for good cause, require the Director or Deputy Director to withdraw from such meeting.

(4) Section *eleven* shall apply, with the necessary modifications, to the Director and the Deputy Director.

Secretary and other staff

13. (1) There shall be a Secretary to the Agency who shall be appointed by the Agency on such terms and conditions as the Agency may determine.

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the Agency under the general supervision of the Agency.

(3) The Agency may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions.

Disclosure of interest by employees

14. (1) An employee of the Agency or a consultant to the Agency who is, or whose spouse is, directly or indirectly interested in a private or professional capacity, in any matter relating to the privatisation programme shall be required to disclose such interests.

(2) A disclosure of interest made under this section shall be made to the Director who shall take such decision as he considers appropriate in each case.

Oath of secrecy

15. The employees of the Agency, consultants, members of the Agency and members of a committee of the Agency shall take an oath of secrecy as prescribed under this Act.

Prohibition of publication or disclosure of information by unauthorised persons

16. (1) No person shall, without the consent in writing given by, or on behalf of, the Agency, publish or disclose to any person, otherwise than in the course of his duties, the contents of any documents, communication or information, which relates to, and which has come to his knowledge in the course of his duties under this Act.

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon

conviction to a fine not exceeding one hundred thousand kwacha or to a term of imprisonment not exceeding five years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any person he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand kwacha or to a term of imprisonment not exceeding five years, or to both.

PART IV

PROCEDURE FOR PRIVATISATION AND COMMERCIALISATION

Privatisation of state owned enterprises

17. A State owned enterprise shall be privatised in accordance with the divestiture sequence plan.

Golden share

18. The Minister responsible for finance may, on the advice of the National Assembly, retain a share in a State owned enterprise and convert such share into a golden share.

Allotment of shares

19. The shares of a State owned enterprise shall be allotted by the Agency.

Obligations of share holders

20. The share holders in any State owned enterprise, when requested by the Agency, shall provide to the Agency such information as the Agency may require.

Obligations of state owned enterprises

21. (1) A State owned enterprise scheduled for privatisation shall—

(*a*) carry out any recommendations, made by the Agency, for preparing the company for privatisation;

(*b*) keep up to date all business records and books of account;

(*c*) prepare a two to three years' investment and financing plan and a manpower development plan;

(*d*) prepare statutory accounts and cause them to be audited not later than four months after each financial year;

(*e*) maintain a fixed asset register which shall be reconciled with the financial statement;

(*f*) not perform any action or actions that would result in the assets of the company being dissipated;

(*g*) not undertake any new capital investment programmes, unless a project appraisal document approved by the Agency is prepared showing that—

(i) routine plant, equipment and vehicle renewal is required;

(ii) rehabilitation expenditure is essential to keep the operations of the State owned enterprise running or to improve the marketability of the enterprise;

(iii) new capital investment has a pay back period of less than two years;

(iv) capital investment will contribute to the promotion of export-import substitution;

(v) the State owned enterprise is not earmarked for divestiture within two years of the investment being completed; or

(vi) the State owned enterprise demonstrates that the investment will not allow a deterioration of the company's operations;

(*h*) clear as far as possible all contractual, legal and other obligations;

(*i*) not give any person information which might give undue advantage to that person or any potential investor;

(*j*) pay all costs incidental to the privatisation of an enterprise relating to—

(i) valuation fees;

(ii) legal costs;

(iii) advertising charges;

(iv) marketing expenses; and

(v) any other expense;

(*k*) when requested by the Agency, disclose all or any information about the enterprise; and

(*l*) refrain from taking any action or actions which may cause industrial unrest.

(2) Any person or officer of a State owned enterprise who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand kwacha or to a term of imprisonment not exceeding five years, or to both.

Modes of privatisation

22. (1) The Agency may employ the following modes of privatisation:

(*a*) public offering of shares;

(*b*) private sale of shares through negotiated or competitive bids;

(*c*) offer of additional shares in a State owned enterprise to reduce Government share holding;

(*d*) sale of the assets and business of the State owned enterprise;

(*e*) reorganisation of the State owned enterprise before the sale of the whole or any part of the State owned enterprise;

(*f*) management or employee buyouts by management or employees in that State owned enterprise;

(*g*) lease and management contracts; or

(*h*) any other method the Agency may consider appropriate.

(2) The Agency shall ensure that each State owned enterprise is sold for its market value.

Valuation of state owned enterprise

23. (1) The valuation of State owned enterprises shall be performed by independent valuers who shall issue a certificate of valuation.

(2) The valuation of a State owned enterprise shall be done in accordance with the following:

(*a*) the valuation shall be based on the current value of the State owned enterprise;

(*b*) where the enterprise is not operational or the assets do not form part of a core of the business, the valuation shall be based on the net asset value of the State owned enterprise; or

(*c*) any other prudent and acceptable valuation method.

(3) The net asset value shall be based on the—

(*a*) valuation certificate of the market value of the real property valued by a real estate valuer;

(*b*) valuation certificate of the depreciated replacement value of tangible assets other than real property; or

(*c*) a fair value of other assets and liabilities valued by a consultant.

Eligible buyer

24. The shares in a State owned enterprise shall be sold to a citizen of Zambia or a person who is not a citizen of Zambia.

Sale of shares to employees and consultants

25. No member or members of a committee or any employee or consultant of the Agency or the spouse, child, mother, father, brother, sister or a professional business partner as the case may be, of the employee or consultant shall purchase shares unless the sale is by public offer of shares.

Political leaders

26. Political leaders and public officers shall publicly disclose their intention to bid for the purchase of shares in a State owned enterprise.

Declaration by potential investor

27. A potential investor shall disclose his bid in a State owned enterprise, his direct personal interest and his indirect interest, either through share holdings or through a nominee or otherwise, in a State owned enterprise.

Established fund

28. An established fund may, with a consent of the contributors, purchase shares in a State owned enterprise on behalf of the contributors.

29. (1) The Minister responsible for finance shall establish a Privatisation Trust Fund in which the Government shall hold shares in trust for citizens of Zambia for divesture after a State owned enterprise has been privatised.

Purchase of shares by citizens of Zambia

(2) The following shall apply to citizens of Zambia—

(*a*) shares may be offered at a discount to persons who purchase a small number of shares;

(*b*) a share bonus shall be given at the end of a prescribed period to small shareholders who hold onto shares;

(*c*) individuals, management and employees of the State owned enterprise may pay for shares in installments; or

(*d*) individuals may participate in the acquisition of shares which have been transferred in a State owned enterprise to a Privatisation Trust Fund which shall be established under this Act.

30. Foreign investors shall be entitled to incentives under the Investment Act if such investor acquires shares in a State owned enterprise where—

Foreign Investors Act No. 19 of 1991

(*a*) expertise is needed to upgrade efficiency of that State owned enterprise;

(*b*) participation is necessary to promote the export market;

(*c*) the nature of business requires global linkages and international exposure; or

(*d*) capital investment or foreign technology is required to expand the capacity of the business operations.

31. Subject to provisions of section *twenty-nine* or any other written law, the shares of a State owned enterprise shall not be sold on credit.

Mode of payment for shares

32. (1) The Agency shall appoint an independent negotiating team for each sale.

Negotiations for offer of sale

(2) A person appointed on the negotiating team shall—

(*a*) have proper professional qualifications, experience and good business standing;

(*b*) take an oath of secrecy; and

(*c*) disclose any personal or professional interest before accepting the appointment.

33. The Agency may convert a State owned enterprise scheduled for privatisation, which is not a public company, into a public company in accordance with the provisions of the Companies Act.

Conversion of private companies to public companies Cap. 686

34. Notwithstanding any provision in any other written law and for purposes of this Act, a bank or financial institution may carry on the business of a stock broker or a dealer in stocks and shares.

Trading in shares

Liquidation
Cap. 686

35. The Agency may liquidate a State owned enterprise in accordance with the provisions of the Companies Act.

Consummation of sale

36. (1) The Minister responsible for finance shall sign the final Sales Agreement to transfer shares to the selected bidder.

(2) The transfer of shares shall be in accordance with the provisions of the Companies Act.

Cap. 686

Commercialisation of specified Government departments

Cap. 686

37. (1) The Minister, in consultation with the Ministry responsible for the department to be commercialised, may specify, by notice in the *Gazette*, any Government department for purposes of commercialisation under this Act.

(2) A specified Government department shall be incorporated under the Companies Act.

(3) A Government department specified under this section may—

(*a*) fix its own rates, prices and charges for goods and services provided;

(*b*) capitalise assets; and

(*c*) borrow debenture stocks.

Publication of information

38. (1) The Agency shall publish by notice in the *Gazette*—

(*a*) the names of the approved State owned enterprises to be privatised;

(*b*) the registered consultants, valuers, lawyers, public accountants and merchant banks dealing with the privatisation process;

(*c*) the bidders and bid prices;

(*d*) the successful bidders and the reason for selecting such bidders;

(*e*) the price of shares and any other special conditions of the sale of shares; and

(*f*) any other matters deemed appropriate.

(2) Any person with an interest in a State owned enterprise to be privatised, shall make a claim to the Agency within a period of thirty days after the notice referred to in subsection (1) is published.

(3) Any person having an interest in a State owned enterprise and who does not make a claim within fourteen days of the notice referred to in subsection (1) shall be deemed to have relinquished all interests in the State owned enterprise.

PART V

FINANCIAL AND OTHER PROVISIONS

39. (1) Any proceeds from completed sales of shares and assets shall be paid into a Privatisation Revenue Account established by the Minister responsible for finance and held at the Bank of Zambia. Use of proceeds

(2) With the prior approval of the Minister responsible for finance the proceeds of sale referred to in subsection (1) may be used for—

(*a*) funding the cost of privatisation and the Privatisation Trust Fund;

(*b*) initial financing of mutual funds;

(*c*) expanding existing productive capacities;

(*d*) financing credit creation by the Government for Zambian investors;

(*e*) rehabilitating existing plants;

(*f*) supporting new capital investments;

(*g*) funding the restructuring of State owned enterprises to be privatised;

(*h*) supporting redundancy payment schemes in consultation with the Ministry responsible for labour;

(*i*) supporting alternative income generating projects; or

(*j*) funding of any social project that will be in the public interest.

40. (1) Subject to section *thirty-nine* the funds of the Agency shall consist of such moneys as may— Funds of Agency

(*a*) be appropriated by Parliament, for the purposes of the Agency;

(*b*) be paid to the Agency by way of grants or donations;

(*c*) be retained by the Agency from the proceeds of sale as may be approved by the Minister responsible for finance; and

(*d*) vest in or accrue to the Agency.

(2) The Agency may—

(*a*) accept money by way of grants or donations from any source in Zambia;

(*b*) raise money by way of loans from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia, such moneys as it may require for the discharge of its functions; and (*c*) charge and collect fees in respect of programmes, publications, seminars, documents, consultancy services and other services provided by the Agency.

(3) There shall be paid from the funds of the Agency—

(*a*) the salaries and allowances of the staff of the Agency;

(*b*) such loans to members of staff as may be approved by the Agency;

(*c*) such reasonable travelling, transport and other allowances for the members of the Agency or a committee of the Agency when engaged on the business of the Agency at such rates as the Agency may, with the approval of the Minister, determine; and

(*d*) any other expenses incurred by the Agency in the performance of its functions.

(4) The Agency may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

Financial year

41. The financial year of the Agency shall be the period of twelve months ending 31st December, in each year.

Accounts

42. (1) The Agency shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Agency shall be audited annually by independent auditors appointed by the Agency.

(3) The auditors' fees shall be paid by the Agency.

Annual reports

43. (1) As soon as practicable, but not later than six months after the expiry of the financial year, the Agency shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Agency and there shall be appended to the report—

(*a*) an audited balance sheet;

(*b*) an audited statement of income and expenditure; and

(*c*) such other information as the Agency may consider appropriate.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next, after receipt of the report referred to in subsection (1), lay it before the National Assembly.

(4) The report shall be published for sale to the public.

Progress report

44. (1) The Agency shall submit a report, at the end of June and at the end of December of each year, on its activities to the Minister giving details of bids received and reasons for preferring the successful bid.

(2) The Agency shall publish the report for sale to the public.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next, after receipt of the report referred to in subsection (1), lay it before the National Assembly.

45. Any property, real or personal proc ·.ed or acquired for the purposes of the privatisation programme shall, after the commencement of this Act, vest in the Agency. Vesting of the property of Agency

46. (1) The procurement of goods and services of the Agency shall not be subject to the provisions of the Zambia National Audit Corporation Act and the Zambia National Tender Board Act: Procurement of goods and services Act No. 32 of 1982 Act No. 30 of 1982

Provided that the procurement of goods and services above two million kwacha or ten thousand United States Dollars shall be approved by a committee of the Agency and the procurement of goods and services below two million kwacha or ten thousand United States Dollars shall be approved by a management tender committee of the Agency.

(2) The Agency shall, in procuring the goods and services, approve increases to the kwacha amount based on the percentage of the official rate of inflation.

47. Any dispute arising from the privatisation process shall be settled by arbitration in accordance with the Arbitration Act. Arbitration Cap. 180

48. (1) A person who knowingly falsifies any information or knowingly does not disclose any material facts or solicits for his own use or as agent of any other person any confidential information relating to the privatisation of a State owned enterprise shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand kwacha or to imprisonment for a term not exceeding five years, or to both. Penalties for falsification of information

(2) A person found guilty under subsection (1) shall not thereafter participate in the purchase of shares in any State owned enterprise.

49. The Minister, on the advice of the Agency, may by Statutory Instrument prescribe the— Regulations

(*a*) sale tender procedures;

(*b*) public flotation procedures;

(*c*) pre-qualification and registration of bidders procedures;

(*d*) public announcement requirements;

(*e*) tender evaluation procedures;

(*f*) tender selection procedures;

(*g*) negotiation guidelines;

(*h*) final sale monitoring guidelines;

(*i*) pre and post sale audit requirements;

(*j*) any forms for the purpose of this Act;

(*k*) any fees payable in respect of any service provided by the Agency; and

(*l*) such other matters as are necessary or conducive to the better carrying out of the purposes of this Act.

Prior leases and agreements

50. All leases and agreements entered into in relation to enterprises to be privatised under this Act and in anticipation of the coming into force of this Act are hereby nullified.

Appendix C

OFFICIAL GOVERNMENT CONTACTS IN ZAMBIA

Ministry of Labour and Social Security
Lechwe House
Freedom Way
P.O. Box 32186
Lusaka

Ministry of Community Development and Social Welfare
Lechwe House
Freedom Way
P.O. Box 21958
Lusaka

Ministry of Communications and Transport
Fairley Road
P.O. Box 50065
Lusaka

Ministry of Energy and Water Development
Profund House
11th Floor
P.O. Box 50296
Lusaka

Ministry of Agriculture, Food and Fisheries
Mulungushi House
Independence Av.
P.O. Box 30055
Lusaka

Ministry of Lands
Mulungushi House
Independence Av.
P.O. Box 30055
Lusaka

Ministry of Legal Affairs
Fairley Road
P.O. Box 50106
Lusaka

Ministry of Environment and Natural Resources
Mulungushi House
2nd Floor
P.O. Box 50694
Lusaka

Ministry of Finance
Independence Av.
P.O. Box 50062
Lusaka

Ministry of Foreign Affairs
Independence Av.
P.O. Box RW 50069
Lusaka

Ministry of Home Affairs
Independence Av.
P.O. Box 32862
Lusaka

Ministry of Defence
Independence Av
P/B RW 17X
Lusaka

Ministry of Local Government and Housing
Church Road
P.O. Box 50027
Lusaka

Ministry of Health
1st & 2nd Floors
Woodgate House
Cairo Road
P.O. Box 30205
Lusaka

Ministry of Education
Independence Av.
P.O. Box 50093
Lusaka

Ministry of Commerce, Trade and Industry
Kwacha House
Cairo Road
P.O. Box 31968
Lusaka

Ministry of Information and Broadcasting Services
Independence Av.
P.O. Box 51025
Lusaka

Ministry of Mines and Minerals Development
Chilufya Mulenga Rd.
P.O. Box 31969
Lusaka

Ministry of Technical Education
and Vocational Training
Haile Selassie Av.
P.O. Box 50464
Lusaka

Ministry of Sport and Child Development
Ministry of General
Education Building
Independence Av.
P.O. Box 50093
Lusaka

Ministry of Tourism
Electra House
Cairo Road
P.O. Box 30575
Lusaka

Ministry of Works and Supply
Block 28
Independence Av.
P.O. Box 50236
Lusaka

Appendix D

PTA Preferential Trade Arrangements and the Clearing House

The Preferential Trade Area (PTA) is an economic cooperation arrangement amongst the countries of Eastern and Southern Africa. It is a sub-regional grouping which provides for cooperation in all major sectors embracing trade, industrial cooperation, transport, communications, agriculture, financial and other arrangements.

Objective

The principal objective of the PTA is to promote trade and cooperation in other fields of economic activity, so as to raise the standard of living of the people in the region and foster closer relations among the member countries i.e. with the ultimate objective of becoming a common market and eventually an economic community by the turn of the century. The objectives of the PTA as set out in Articles 3 and 28 of the Treaty are as follows:

(a) To promote cooperation in the fields of trade, customs, industry, transport, communications, agriculture, natural resources and monetary affairs.

(b) To promote the establishment of inter alia appropriate machinery for the exchange of agricultural products, minerals, metals, manufactures and semi-manufactures as well as the establishment of common training programs and institutions in various fields which would assist in the development of the manpower required by the PTA Member States.

In particular, where trade is concerned the PTA aims at:

(a) The gradual reduction and ultimate elimination of customs duties in respect of imports of commodities produced within the PTA.

(b) Establishment of common rules of origin with respect to products that shall be eligible for preferential treatment.

(c) Establishment of appropriate payment and clearing arrangements that would facilitate trade in goods and services.

(d) Fostering cooperation in the fields of transport and communications with a view of facilitating trade in goods and services.

(e) Establishing conditions regulating the re-export of products within the PTA.

(f) Promulgating of regulations for facilitating transit trade within the PTA.

(g) Simplification and harmonization of trade documents and procedures.

(h) Cooperation in customs matters.
(i) Standardization of the manufactures and quality of goods produced and traded within the PTA.
(j) Relaxation or abolition of quantitative administrative restrictions on trade among members.
(k) Promoting the establishment of direct contacts between and regulating the exchange of information among their commercial organizations such as Chambers of Commerce, association of businessmen and trade information and publicity centers.
(l) Ensuring the application of Most Favored Nation Clause to each other.
(m) Progressively adapting the members' commercial policies in accordance with the provisions of the PTA Treaty.

Membership

The organization comprises sixteen member countries: Burundi, Comoro Islands, Djibouti, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Rwanda, Somalia, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

PTA Common List

The PTA Common List comprises a list of selected commodities/products which are to be accorded lower customs duties and equivalent charges when traded amongst the member states. These are commodities and products of import and export interest to member states. The list is revised periodically to include more goods of import and export interest to the member countries. Negotiations (revisions) are undertaken every two years and the main consideration is matching of import or export interests for a product to be included in the Common List. The last revision was done in June 1987.

The list is in six categories and the initial reductions in tariffs are as follows:

Group	Description	Initial Percentage Tariff Reduction
I	Food Items (excluding luxury items)	30%
II	Raw materials:	
	A. agricultural	50%
	B. non-agricultural	60%
III	Intermediate goods	65%
IV	Manufactured consumer goods (excl. luxury items):	
	A. durable consumer goods (excl. (IVc) and (IVd))	40%
	B. non-durable consumer goods (excl. (IVc) and (IVd))	35%
	C. highly competing consumer goods	30%
	D. Consumer goods of particular importance to economic development	70%

V	Capital goods (incl. transport equip't)	70%
VI	Luxury goods	10%

At its 10th Meeting the Council of Ministers approved the formula for further lowering of tariff and non-tariff barriers to intra-PTA trade according to the provisions of the Treaty. The target year for reducing customs duties was extended from 1992 to 1996. In this respect, five rounds of tariff reductions at a discount rate of 10 per cent each time will be effected in 1988, 1990, 1992, 1994 and 1996. This is to allow member states sufficient time to carry out the necessary structural adjustment to strengthen their economies, and to spread their revenue losses. Subject to review of the entire situation in 1996 the remaining 50 per cent may be eliminated in two steps.

Eligibility Requirements for Preferential Treatment

Goods traded amongst the member states will only receive preferential treatment if they meet the following requirements:-

(i) Qualify under or satisfy the PTA Rules of Origin.

(ii) The products or goods should be in the PTA Common List which comprises commodities and products of import and export interest to member states.

(iii) Local content of 45% i.e. the local value added resulting from the process of production should account for at least 45% of the ex-factory cost.

PTA Rules of Origin

The requirements of the Rules of Origin state that

(i) goods must be consigned directly from a member state to a consignee in another member state.

(ii) must be produced by enterprises in the member countries 51% owned by nationals of member states, their government institutions, agencies or corporations. Besides the above two, they must satisfy any one of the following requirements to qualify as originating in a PTA Member State.

(a) the products must have been produced in a member state and the value of materials imported from outside PTA and used at any one stage of production should not exceed 60% of the total cost of materials used in production of goods.

OR

(b) they are produced in a member state and CIF value added resulting from the process of production accounts for at least 45% of the ex-factory cost.

(c) they have, through a process of production been substantially transformed out of material imported from NON-PTA countries.

In May 1986 the PTA Authority meeting in Bujumburu, Burundi, suspended the PTA Rules of Origin (Rule 2-1 (a)) for five years. The application of it was found too restrictive and therefore a stumbling block to trade amongst the member countries. During this period, the following sliding scale preferential formula applies.

(i) Goods from enterprises 51% and above owned by nationals will enjoy 100% preferential treatment.
(ii) Goods from enterprises 41% up to 50% owned by nationals will enjoy 60% preferential treatment.
(iii) Goods from enterprises 30% up to 40% owned by nationals will enjoy 30% preferential treatment.

In respect of countries that are already enjoying derogations under the Treaty, it was decided that the sliding scale preferential treatment formula would apply on a pro-rata basis. In the case of the BLS countries the sliding scale is as follows:

(i) Enterprises with 30% and above ownership by nationals from or nationals from PTA member states will enjoy 100% preferential treatment.
(ii) Above 24% and below 30% ownership by nationals will enjoy 60% preferential treatment.
(iii) 18% up to 24% ownership by nationals will enjoy 30% preferential treatment.

As per the BLS Protocol the derogation i.e. that of reducing the 51% equity holding to 30% was for a period of five years as from 30th September, 1982, after which the percentage is to be reconsidered. This process is under way.

Clearing House Payment Arrangement

The PTA Multilateral Clearing House was established under the PTA Treaty mainly to facilitate and promote easy flow of traded goods and services under an agreed payment scheme. The member states (countries) are allowed to use their national currencies as a means of settling their day to day payments.

A Committee on Clearing and Payments Arrangement was established under the Protocol on Clearing and Payments. This Committee consists of Governors of monetary authorities or central banks of signatory countries.

It is charged with the responsibility of promoting trade in goods and services within the PTA by:

(i) encouraging the use of national currencies in the settlement of transactions between member countries.
(ii) establishing adequate machinery for the settlement of payments among themselves.
(iii) reducing as much as possible the use of foreign exchange by member states in intra-regional settlements.

It is this Committee which adopted rules and regulations for the establishment of the multilateral clearing facility commonly known as the CLEARING HOUSE and based in Harare, Zimbabwe.

The Committee has adopted the unit of account of PTA (UAPTA) as its currency and is currently pegged to the International Monetary Fund (IMF) "Special Drawing Right" (SDR). Payments are settled at the exchange rate of the day of payment. The basic objective is to facilitate and encourage the use of national currencies in the settlement and payment of intra-PTA trade transactions and other services, and in the process reduce the use of convertible foreign exchange. With the introduction of the PTA Clearing House all trade transactions in the sub-region could be effected through the account of the member country at the Clearing House. There is an established transaction period of two calendar months after which net balances are settled in convertible currency between Central Banks. The balance in such an account at the end of a transaction period is in effect therefore the net trade balance with the member countries for the trade and other payments routed through the account. It means that during a transaction period export proceeds from other members are automatically applied to pay for imports from other member states. This is an advantage over other payment arrangements as it reduces settlements in convertible currencies to only once after each transaction period for trade among the members. During this two calendar months transaction period members are not charged interest on any debit balances. Thus a free credit is given to them during the two-month transaction period.

Operations of the Clearing House

Operations may be divided into two transactions.

1. The transactions between the exporter, importer and their commercial bankers.
2. The transactions between the member countries central banks and the Clearing House.

Each of the PTA Member Central Bank operates an UAPTA account with the Clearing House and these monetary authorities are also required to operate reciprocal accounts among themselves. The same is required of the commercial banks. A trader's commercial bank in Zimbabwe should have necessarily established correspondent arrangements with one of the commercial banks in the other member country with which it is intended to do business. When an importer requires the currency of another member country he would go to his commercial bank which in turn would go to its Central Bank. The Central Bank will purchase the required currency from the Central Bank of the exporting member country in exchange for UAPTA. The Clearing House would then debit the importer's Central Bank and credit the exporter's Central Bank with the UAPTA equivalent. The currency bought is then paid in local currency. The Clearing House can be used for payments of all trade transactions and services.

The introduction of the Clearing House payment arrangement has not resulted in any variations or upsets to the already existing settlement procedures. As already stated the PTA Clearing House Payments System provides a mechanism for minimizing the use of foreign exchange in the settlement of intra-PTA trade and other transactions.

The role of commercial banks in the system is secondary to that of central banks which are directly involved in the PTA payments and settlement framework. Commercial banks do however have a very important function in the PTA payment arrangements. They make it possible for the business community to pay in local currencies for imports and to receive export proceeds through the correspondent accounts or agency relationship with their counterparts in PTA member countries. Participation by commercial banks in the system commences only after the exporter and the importer in the member countries have entered into a valid contract, placed firm orders based on authorized imports with each other and clearly defined the method of payment.

Certain Popular Misconceptions Regarding PTA Arrangements

(a) The PTA is only for trade in products and commodities in common list.

This impression is incorrect. The member states of the PTA can exchange any commodity/product produced in their countries within the normal tariff structure and the existing rules and procedures governing trade. If preferential tariffs under the PTA Treaty are required to be availed of, the commodities to be bought or sold should be in the common list and conform to the rules of origin requirements.

(b) The PTA Clearing House Payment Mechanism can only be used for trading in commodities in the Common List.

This is also erroneous. The Clearing House Payment Mechanism is open for use for trade in commodities and services produced in member countries. Such commodities do not have to be in the Common List or even to conform to the rules of origin requirements. Services can also be paid for through the Clearing House.

Appendix E

Lomé Convention Preferential Trade Arrangements

The Lomé Convention is a co-operation agreement between the European Community (EC) and the African, Caribbean and Pacific Group of States (ACP). The former has twelve member states and the latter is comprised of sixty-six. This convention was concluded in order to promote and expedite the economic, cultural and social development of the ACP States through trade, financial and technical assistance.

Under this convention the chapter on Trade Co-operation has as its object to promote trade between the ACP States and the Community by improving the conditions of access for their products to the community market.

Products originating in the ACP States shall be imported into the community free of Customs duties and charges having equivalent effect.

The following products shall be considered as products originating in an ACP State.

(a) products wholly obtained in one or more ACP State.

(b) products obtained in one or more ACP States in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing.

Sufficient working or processing means that the goods obtained receive a classification under a different tariff heading from that covering each of the products worked or processed. The incorporation of non-originating materials and parts in a given product obtained shall only make such products lose their originating status if the value of the said materials and parts incorporated exceeds 5% of the value of the finished product.

When products wholly obtained in the community (EC) or in their overseas territories or ACP States undergo working or processing in one or more ACP States, they shall be considered as having been wholly produced in that or those ACP States, provided that the products have been transported directly—direct consignment rule.

Eligible products shall be accompanied by evidence of originating status, the movement certificate EURI.

However, products which fall under a common organization of the treaty establishing the European Communities or are subject on import into the community, to specific rules introduced as a result of the implementation of the Common Agricultural Policy (CAP) may be excluded or subject to quantitative restrictions or the safeguard clause.

The following products shall be considered as wholly obtained either in one or more ACP States or in the community.

(a) mineral products extracted from their soil or from their seabed;
(b) vegetable products harvested therein;
(c) live animals born and raised therein;
(d) products from live animals raised therein;
(e) products obtained by hunting or fishing conducted therein;
(f) products of sea fishing and other products taken from the sea by their vessels;
(g) products made abroad their factory ship exclusively from products referred to in subparagraph (f);
(h) used articles collected there fit only for the recovery of raw materials;
(i) waste and scrap resulting from manufacturing operations conducted therein;
(j) goods produced there exclusively from the products specified in subparagraphs (a) to (i).

For the purpose of para.2(b) the following shall always be considered as insufficient working or processing, whether or not there is a change of tariff heading:

(a) operations to ensure the preservation of merchandise in good condition during transport and storage;
(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching, washing, painting, cutting-up;
(c) (i) changes of packaging and breaking up and assembly of consignments;
 (ii) simple placing of bottles, flasks, bags, cases, boxes, fixing on cards or boards.
(d) affixing marks, labels and other like distinguishing signs on products or their packaging.
(e) (i) simple mixing of products of the same kind where one or more components of the mixture do not meet the conditions as originating product.
 (ii) simple mixing of products of different kinds unless one or more components of the mixture do not meet the conditions as originating product.
(f) simple assembly of parts of articles to constitute a complete article;
(g) a combination of two or more operations specified in subparagraph (a) to (f);
(h) slaughter of animals.

In defining the concept of originating products, Protocol I of the Lomé III Convention gives a list of working or processing operations carried out on non-originating materials which result in a change of tariff heading without conferring the status of "originating products" on the products resulting from such operations.

The Lomé Convention has a provision for financial assistance in trade promotion so that exporters from any ACP country may participate in trade fairs and exhibitions.

Appendix F

USEFUL CONTACTS IN ZAMBIA

United States Embassy
(corner of Independence and United Nations Avenues)
PO Box 31617
Lusaka

Telephone:	228 595
Telex:	41970

Central Bank

Bank of Zambia
PO Box 30080
Lusaka

Telephone:	216 529
Telex:	41560

Commercial Banks

African Commercial Bank Ltd.
Cairo Road
PO Box 30097
Lusaka

Telephone:	229 482
Telex:	40092
Fax:	227 495

National Savings and Credit Bank of Zambia
Plot 248 Cairo Road
Lusaka

Telephone:	211 520
Telex:	42270

Zambia National Commercial Bank Ltd.
PO Box 33611
Lusaka

Telephone:	228 636
Telex:	42360
Fax:	216 024

Foreign Banks

ANZ Grindlays Bank International (Zambia) Ltd. (UK)
Woodgate House, Cairo Road
PO Box 31955
Lusaka

Telephone:	229 285
Telex:	42461
Fax:	218 938

Barclays Bank of Zambia Ltd. (UK)
Kafue House, Cairo Road
PO Box 31936
Lusaka

Telephone:	228 858
Telex:	41570
Fax:	216 254

Citibank Zambia Ltd. (USA)
Kulima Tower, Katunjila Road
PO Box 30037
Lusaka

Telephone:	211 431
Telex:	45610

Indo-Zambia Bank (India)
Cairo Road
PO Box 35411
Lusaka

Telephone:	222 613
Telex:	40178
Fax:	222 613

Meridien International Bank Ltd.
(Bahamas)
Kabendekela House, Dedan Kimathi Road
PO Box 37158
Lusaka

Telephone:	229 411
Telex:	40327
Fax:	216 499

Standard Chartered Bank Ltd. (UK)
Cairo Road
PO Box 32238
Lusaka

Telephone:	229 242
Telex:	45140
Fax:	222 092

Development Banks

Agricultural Finance Company Ltd.
Kulima House, Chachacha Road
PO Box 31977
Lusaka

Telephone:	213 111
Telex:	43280

Development Bank of Zambia
(corner of Katondo and Chachacha Roads)
PO Box 33955
Lusaka

Telephone:	228 580
Telex:	45040
Fax:	222 426

Zambia Agricultural Development Bank
Society House, Cairo Road
PO Box 30847
Lusaka

Telephone:	219 251
Telex:	40126

Zambia Export and Import Bank Ltd.
Society House, Cairo Road
PO Box 33046
Lusaka

Telephone:	229 486
Telex:	40098
Fax:	222 313

Insurance

Zambia State Insurance Company
Premium House, Independence Avenue
PO Box 30894
Lusaka

Telephone:	218 888
Telex:	42521

Trade and Industry Associations

Lusaka Chamber of Commerce and Industry
PO Box 30844
Lusaka

Telephone:	252 639
Telex:	40124

Copper Industry Service Bureau Ltd.
PO Box 22100
Kitwe

Telephone:	214 122
Telex:	52620

Zambia Association of Manufacturers
PO Box 30844
Lusaka

Telephone: 252 369
Telex: 40124

Zambia Confederation of Industries and Chambers of Commerce
PO Box 30844
Lusaka

Telephone: 252 369
Telex: 40124
Fax: 252 483

Zambia Farm Employers' Association
VTA House, Chachacha Road
PO Box 30395
Lusaka

Telephone: 213 222
Telex: 40164

Zambia Seed Producers' Association
PO Box 30013
Lusaka

Telephone: 222 881
Telex: 40164

Zambia Airways Corporation
Ndeke House, Haile Selassie Avenue
PO Box 30272
Lusaka

Telephone: 228 274
Telex: 43850
Fax: 254 281

Zambia Electrical Supply Corporation
PO Box 33304
Lusaka

Telephone: 213 177
Telex: 40150

Zambia National Tourist Board
Century House, Cairo Road
PO Box 30017
Lusaka

Telephone: 217 761
Telex: 41780

Zambia Railways
PO Box 80935
Kitwe

Telephone: 222 201
Telex: 81000

Other Organizations

National Air Charters Ltd.
PO Box 33650
Lusaka

Telephone: 219 604
Telex: 43840

National Hotels Development Corporation
PO Box 33200
Lusaka

Telephone: 211 023
Telex: 44130