

The Investor Roadmap for Zambia

Final Report

U.S. Agency for International Development

Prepared for: USAID/Zambia

Prepared by: Marc Shiman, The Service Group
Sutherland Miller, The Services Group
Can Tutuncu, The Services Group
David Newbert, The Services Group

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Investor Roadmap of Zambia

1.1 Background

The United States Agency for International Development (USAID), in consultation with the Zambia Investment Centre (ZIC), the national investment promotion agency for the Government of the Republic of Zambia (GRZ), has commissioned The Services Group (TSG), an Arlington, Virginia-based consulting firm, to conduct an Investor Roadmap for Zambia. The study is an in-depth analysis of the steps required of an investor to become legally established in Zambia. This focus is appropriate at the current time given that Zambia, like many of its neighboring countries, has made great strides in recent years to liberalize trade and investment policies at the macroeconomic level and has begun to grapple with issues of public sector reform.

While the overall regulatory and administrative environment for new business in Zambia is better than in many African countries, it still falls short of what many investors have come to expect, and of what will facilitate high levels of foreign and local private investment. Some of the impediments to private sector growth – when looked at individually – may appear to be mere annoyances, rather than binding constraints. However, when grouped together as a whole, these constraints can be overwhelming and serve as significant deterrents to private-sector development in Zambia.

Fig. 1.1 illustrates the steps, duration, and fees associated with starting and operating a business in Zambia.

FIGURE 1: ZAMBIA INVESTOR ROADMAP

ACTIVITY	DURATION OF INVESTMENT STEPS								FEES
	3 Months	3 Months	3 Months	3 Months	3 Months	3 Months	3 Months		
Obtaining Visitor's Visa ¹								3 days	US\$25, single entry (for 3 months)
Acquiring Investment Certificate								2 months	US\$250 + 17.5% VAT processing fee + US\$1,000 Certificate fee
Obtaining Self-employment Permit ²								2 months	K100,000 (US\$54) for application, K90,000 (US\$49) for renewal
Obtaining Employment Permit ³								7 weeks	K400,000 (US\$216) for application, K600,000 (US\$324) for renewal
Consent of the Chief								3 days	None
Recommendation from Local Council								2 months	None
Allocation of Land by Commissioner of Lands ⁴								2 months	Vanes
Issuance of Title ⁵								1.5 months	K26,000 (US\$14)
Obtaining Permission to Develop Land ⁶								2 months	K115,000 (US\$62) per sq meter
Obtaining Building Permit								3 months	1/400 of total project for "scrutiny fee"
Obtaining Occupation Permit								1 month	K25,000 (US\$14) inspection fee
Electricity Connection ⁷								1 month	Vanes
Water Connection ⁸								1 week	K250,000 (US\$135)
Sewerage Connection ⁹								3 weeks	K50,000 (US\$27)
Phone Connection ¹⁰								8 months	K260,000 (US\$140)
Company Registration								7 days	K5,000 (US\$2.70) processing fee for company name, K1,000 (US\$0.54) plus 2.5% of nominal capital for application to incorporate, K180,000 (US\$97) foreign company registration fee
Trademark Registration ¹¹								3.5 months	Locals: K15,000 (US\$8) trademark filing fee + K50,000 (US\$27) registration fee; Foreigners: US\$150 trademark filing fee + US\$450 trademark registration fee
Patent Registration ¹²								3.5 months	Locals: K30,000 (US\$16) processing fee + K15,000 (US\$8) completion fee, Foreigners: US\$100 processing fee US\$100 completion fee
Project Brief Review								3 weeks	K100,000 (US\$54) average
Environmental Impact Assessment Review								1.5 months	5% of the project budget
Environmental Council Licenses ¹³								1.5 months	K100,000 (US\$54) average
Banking Licenses								3 months	K5 million (US\$2703) for commercial + K3 million (US\$1623) for non-bank financial institutions
Tourist Enterprise Authorization License								2.5 months	Ranging from a minimum of US\$561 to a maximum of US\$1,261 depending on 1/2% of the capital
Hotels Board License								1 month	Vary depending on the number of stars for the facility
Mining License								1.5 month	K180,000 (US\$97) for large scale mining
VAT/Direct Taxes Registration ¹⁴								2 weeks	None
Special Import/Export Licenses ¹⁵								3 months	K525,000 (US\$284) average

FOOTNOTES

The sequence of activities presented in the above chart is according to the official documents.

1 This fee is for single entry. Double entry is US\$30 and multiple entry fee is US\$40

2 Processing times range from 2 weeks to 3 months.

3 Processing times range from 2 weeks to 3 months.

4 Ground rents averaging K45,000 (US\$24) per hectare for industrial land have to be paid.

5 Typically it takes from 1 to 2 months, but may take longer due to surveying, which ranges from 6 to 9 months. Fee for registration is K6,000 (US\$3) and fee for issuance is K20,000 (US\$11).

6 Scrutiny Fees range from K25,000 (US\$14) to K200,000 (US\$108)/sq m. by type of building. Receipt times range from 1 to 3 months.

7 Connection charges depend on the location and infrastructure in place, one investor reported paying K25 million (US\$13,514)

8 The application fee is by Ndola Town Council for industrial usage. The duration reflects for Ndola as well.

9 The application fee and duration are for Ndola Town Council, one investor reported K60,000 (US\$32) for sewer connection.

10 K150,000 (US\$81) installation fee + K100,000 (US\$54) deposit charge + K 10,000(US\$5) two months rental.

11 Registrar of Companies is considering to apply same fees to both Zambians and non-Zambians

12 Registrar of Companies is considering to apply same fees to both Zambians and non-Zambians

13 Application should be made 6 months prior to commencing operations. Fees range depending on the type of license

14 Required for firm above the threshold of K30 million (US\$16,216) in any consecutive 12 months.

15 This is an average duration is for licenses related to chemicals. Applicants should apply for this license 3 months prior to shipping/manufacturing chemicals.

1.2 Overview of Findings

Zambia has made significant strides since the early 1990s in privatizing inefficient state-owned enterprises, liberalizing its foreign exchange market, bringing its trade regime in line with world standards, and improving service delivery within some public agencies. But the transition from a highly controlled market is not complete. Investment procedures have not been completely rationalized and harmonized, and some remain highly inefficient, complicated, and slow. The legal infrastructure remains inadequate to completely safeguard and facilitate business. Investment incentives have been repealed in recent years, and the government's efforts to channel investment in key areas have not worked as well as expected. Major portions of the economy, notably significant parts of the Zambian mining sector, remain in public hands, raising concerns among investors and international donors about the government's commitment to liberalization. Finally, the government's will to promote effectively the growth of a healthy and vibrant private sector is not evenly spread throughout the public sector and seems to be waning in the face of heretofore disappointing levels of investment in Zambia.

Few of Zambia's procedural barriers are enough to make an investor look elsewhere. However, many regulations and procedures significantly increase the cost of conducting business in Zambia and thereby make the Zambian business community less competitive than its global rivals. Given Zambia's problems with inadequate infrastructure, key skill deficits in the labor pool, inflation, limited domestic credit, and instances of corruption, these regulatory shortcomings must be addressed to make the Zambian economy competitive. Further, Zambia is in direct competition with other African states, many of which are fast improving their investment climates, for a shrinking amount of international and regional investment capital. This exercise is particularly relevant because some of Zambia's key exports, including copper and cotton, are experiencing declining prices, and new markets must be developed.

Zambia has made many successful efforts in recent years to improve the investment environment. Zambia is ahead of many of its neighboring countries in eliminating bureaucracy, creating cross-ministerial teams to address problems, facilitating public-private dialogue, and eliminating process dependencies. This is particularly laudable in that Zambia is transitioning from one of the most centralized of the formally socialist African states. However, while Zambia has made major strides in eliminating procedural impediments and increasing transparency, it has not completed the transformation that so many governments are now addressing: the transformation from that of a regulator to a service provider.

The Investor Roadmap's focus on procedural and regulatory barriers to investment and trade illustrates how various government policies and actions affect the international competitiveness of both local and foreign investors. Specifically, the Roadmap is intended to identify and document problems in procedures and policies that constrain new foreign investment, the formalization and growth of indigenous investment, and the growth of existing enterprises; ultimately, the Investor Roadmap is a tool to facilitate positive change in these areas. Procedural barriers that cause delays in a project's

generous by international standards, employers report being vulnerable to costly and slow-moving law suits, regardless of whether or not they have complied with the law.

- Although Zambia is blessed with abundant and undeveloped arable land, acquiring title to land tends to be time consuming and complex for new investors. Information sharing among the local chiefs, local councils, the Ministry of Lands, and the National Parks and Wildlife Service is generally poor, resulting in conflicting claims to land, excessive approval procedures, and confusion on the part of investors about the proper procedure to obtain land. As a result, receiving title to land can take several months to a period of years.
- Similarly, investors report that developing land, including getting access to utilities, can be a cumbersome and expensive undertaking. The processes for surveying plots, building structures, and subdividing land involve seeking multiple approvals from overburdened local authorities.
- Many aspects of reporting to government in Zambia are easy and straightforward. In particular, registering a company is easily and quickly accomplished. The Zambia Revenue Authority (ZRA) has made strides to improve many of its interactions with investors. Depending on the type of business, however, sectoral and local-level licensing can be time consuming and duplicative.

Local Investors

As with foreign investors, in recent years it has become much easier for Zambian investors to formalize small businesses and start new companies. The government has made strides to assist small businesspeople start and operate businesses through such initiatives as creating a Tax Assistance Centre in the ZRA and offering targeted fiscal incentives under the Small Enterprise Development Act. However, local investors would benefit most from a government transformed to being focused on providing service to the private sector.

- In general, specialized licensing procedures should be analyzed for opportunities for improvement by their respective regulatory agencies, and increased intra-agency coordination should eliminate areas of procedural and administrative overlap. The tourism sector is probably the most highly regulated part of the Zambian economy. Relatedly, a major concern of the private sector is that companies are required to arrange and pay for many of the inspectors that come to visit their facilities, a burden that can amount to a significant amount of time and money. Smaller operating companies, which tend to be Zambian owned and lack the influence of major international corporations and large employers, are particularly vulnerable to corrupt or officious inspectors. Smaller companies also tend to face greater time and financial burdens in accommodating the numerous inspections that are required.

- According to many local businesspeople, the ineffectiveness and corruption of local councils represents a considerable business risk to local investors. While local councils have authority over several aspects of conducting business in Zambia, including a variety of trades licenses, certain inspections, and developing land, local authorities rarely have the resources and expertise to carry out their mandate efficiently. The private sector is negatively affected by this in several ways, including having to pay the cost of inspections, confronting lengthy delays in obtaining approvals for various aspects of projects, and being vulnerable to bribery by dishonest officials.
- To the extent that they hire expatriates, local investors face the same employment difficulties noted previously. Due to Zambia's retrenchment benefits, terminating Zambian employees is also costly for local investors and small companies.
- The procedures for acquiring land are the same for local investors as foreign investors, but Zambians may have an advantage in being familiar with the process.
- Some investors complain that the ZRA requires companies to file excessive paperwork, especially in the arena of employee compensation and taxation.

1.2.1 Existing Investors

The profitability and competitiveness of Zambian business is important not only for the good of the economy directly, it also influences the flow of foreign direct investment into the country. Despite several major improvements, to date some of the Zambian government's regulations and procedures create significant costs for existing investors, thereby negatively affecting Zambia's competitiveness.

- Local council management and financial capacity is a serious concern for all investors in Zambia. Local councils have a variety of roles in regulating business operations and the development of land, and their procedures are often cumbersome, time consuming, and invasive. Several local committees and council departments, which typically meet infrequently and move slowly, are responsible for approving of many steps in the surveying of land, design of a facility, construction of buildings, and accessing utilities connections. Inspections can be frequent, and the developer is responsible for arranging and funding the inspector's trip to the premises. The technical competence of inspectors and others at the local level is also a concern. Finally, some investors suggest that corruption is rife at the local level.
- Obtaining access to good water, power, telecommunications, and postal services can be difficult, time consuming, and expensive, and none of the major public service providers have taken meaningful steps toward privatization. Local council management of services such as water, sewerage, and garbage collection is typically poor.

- Existing businesses generally find much of reporting to government relatively easy and straightforward. As noted above, complying with multiple licenses and underwriting inspections represents a cost in time and money for operating businesses in Zambia.
- Zambia's Customs and Excise Department has made great progress in recent years in speeding up customs clearance processing times, eliminating superfluous forms, and attempting to work with the private sector to improve the flow of trade in Zambia. The private sector still reports a few problems, however, including average import clearing times that are still higher than optimal, consistent problems with SGS's performance and value-added, several bottlenecks in Zambia's transportation infrastructure, and verification. Delays in clearing goods can seriously complicate business planning for new and operating investors of any nationality. New ventures that must coordinate the installation of new machinery or the arrival of building materials can face project delays and cost overruns. Existing businesses that rely on key inputs or new machinery face similarly costly problems.
- Due to Zambia's worker termination and benefit packages, which are generous by international standards, investors cite firing local workers as a costly process. Further, following the proper legal procedures does not necessarily exempt a business from lengthy and costly lawsuits. For small and local investors, costly severance packages and draining lawsuits are particularly daunting.
- Since liberalizing the foreign exchange and financial markets in Zambia, acquiring foreign capital and repatriating profits do not pose problems for investors.

1.3. Additional Findings

A number of issues affecting the investment environment set Zambia apart from other African countries in which investor roadmaps have been created. The following issues, which impact the investor either directly or indirectly, are given particular attention throughout the study.

1.3.1. Sustaining Momentum for Change

In the last few years, Zambia has embarked upon a tremendous, and at times painful, transformation process, politically, economically, and socially. Under the guidance of the International Monetary Fund (IMF) and other donors, macroeconomic reforms have torn away layers of state control and inefficiency, capped public spending, and pressured the government to increase revenue collection. The downside of this transition includes job losses within the civil service and some privatized companies, the removal of government subsidies, and periods of inflation that eroded the savings and purchasing power of Zambians. Despite these structural changes and significant progress in many

areas, investment flows have been less than hoped for. Current procedures must be streamlined to raise public-sector efficiency and lower the cost of doing business. The government must reaffirm its commitment to the role of the private sector and complete the transition by rationalizing regulation and making the public sector truly customer service oriented.

1.3.2 Agriculture and Tourism

Two sectors of particular interest to the Zambian government, agriculture and tourism, are examined in specific detail in this Investor Roadmap. Both sectors offer great opportunities for investment in Zambia, and each has accounted for growing shares of gross domestic product (GDP) and investment capital in recent years. At the same time, due to the advanced state of privatization in these sectors, continued investment and growth is dependent on the GRZ's ability to attract greenfield investment and support increasing competitiveness of existing businesses.

The agricultural and tourism sectors face many of the same procedural problems, such as acquiring and developing land, managing various national and local level inspections, and confronting an inadequate transportation and communications infrastructure. Primary agricultural businesses benefit more from government policies and incentives than do tourist enterprises, however, and without policy and procedural changes, the government risks impeding the growth and development of Zambian tourism.

In both sectors, the government can play a positive role. Both sectors can be greatly assisted by simplifying and speeding up the process of acquiring and developing land, improving import clearance times, and improving the country's infrastructure, including transportation, telecommunications, and utility services. In the case of agriculture, the government can support private-sector initiatives to increase Zambian farmers' efficiency and to lower production costs. Streamlining agricultural licensing procedures would also help agribusiness import and export with greater ease. For tourism, the government can change immigration policies that discourage visitors, offer tax rebates for the "raw materials" used in the industry, and streamline the regulatory oversight of the industry. Tourism enterprises, many of which are located in rural areas, are particularly aggrieved with having to pay for the cost of a variety of inspections.

1.3.3 Emphasis on Primary Producers

The Zambian government's investment incentives, business promotion efforts, and immigration targets tend to favor primary producers, most notably agribusiness and manufacturing, at the expense of other enterprises. Indeed, there are clear indications that the GRZ is not interested in attracting foreign investment in services and disinclined to allow foreign investment in trading. While the economy will certainly benefit from more farms and factories, significant tax revenue and job creation can be realized by widening the scope of investment in Zambia and developing strong downstream support businesses for agriculture and manufacturing. Furthermore, many businesses that the

government is actively pursuing rely on a wide range of services that are currently noncompetitive or, in some cases, unavailable in Zambia.

1.3.4 Legal Infrastructure

The Zambian legal system needs substantial reform to accommodate the needs of a modern private sector. Currently companies are loath to settle contractual and labor disputes in the Zambian court system for fear of being embroiled in lengthy and costly trials. In general, the courts are seen to be slow, inefficient, and, especially at the lower levels, easily corruptible. The lack of a commercial court system, small claims court, and binding arbitration mechanisms makes many companies feel vulnerable while doing business in Zambia. Some public officials are characterized as overreaching their authority and overruling standard procedures when they have a personal stake in a dispute or contract. Opportunities for corruption still exist in Zambia, further undermining the stability of the investment climate.

1.4 Purpose of the Investor Roadmap Study

The policy and procedural recommendations that have emerged from the Investor Roadmap study, it is hoped, can be used to help the government translate its macroeconomic reforms into concrete, operational changes, ensuring that the means to agency goals are achieved. Hopefully, the Investor Roadmap can help build on the impressive momentum made thus far in Zambia and, by extending policy reforms and procedural improvements throughout the country, improve the economic situation and well being of the Zambian people.

The report is intended to invite responses from concerned agencies and other stakeholders to identify means of improving the overall investment climate in Zambia. The recommendations made are not intended to be definitive, but suggestive, and to encourage those professionals involved to work together to devise concrete means of addressing the current problems and constraints. While this study presents an exhaustive review of many of the critical issues related to the government interface with the private sector, ultimately it is meant to be tool for generating change within the Government of Zambia.

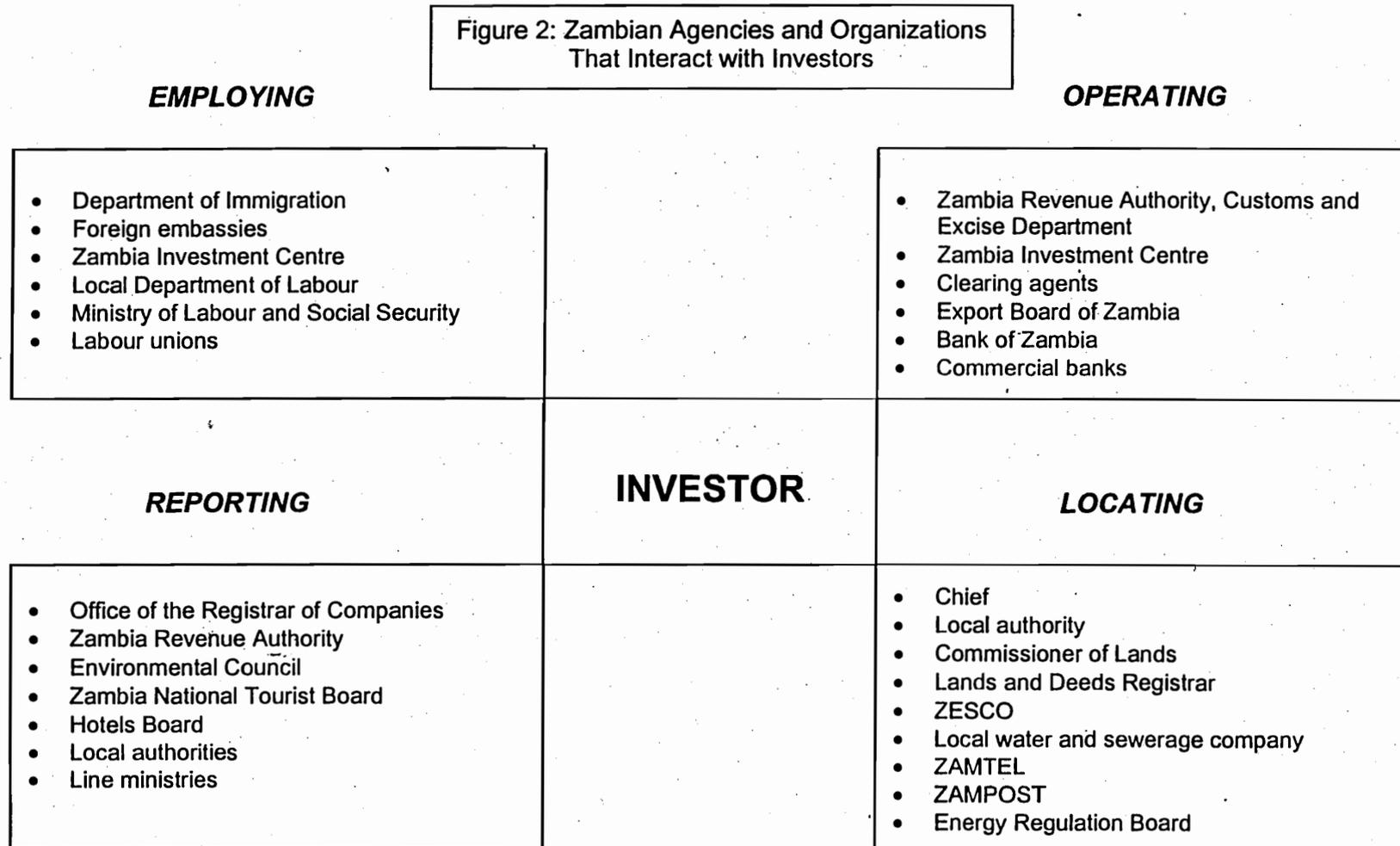
1.5 Methodology and Notes

The bulk of the Investor Roadmap research was conducted in May and June of 1998. During a follow-up mission in August 1998, the Roadmap's findings were presented for review, some public agencies clarified their procedures and policies, and meetings with public officials and the business community validated the analysis and recommendations included in this draft of the document. The information sources for this report include interviews with numerous public officials at the national and local levels, and dozens of

businesspeople in a wide variety of professions, and documents, including Zambian government departmental guidelines and legislation, data from such sources as the IMF, World Bank, and USAID, and reports from several governments' departments of economics and commerce.

At the time of research and writing, the Kwacha was fluctuating against the dollar. For the purposes of this study, unless indicated otherwise, US\$1 equals K1,850. The government calculation of a "fee unit," a measurement meant to help index fee against inflation, is currently K180 per fee unit. Most fees have been calculated in both Kwacha and US dollars. During the course of this study, annual inflation was calculated at approximately 25 percent.

Fig. 1.2 illustrates all the Zambian public agencies and other organizations with which an investor must interact in each of the four process areas.



The Investor Roadmap

2.1 Background

The Investor Roadmap, an in-depth study that details the steps required of an investor to become legally established in Zambia, addresses the administrative and procedural barriers facing investment. This focus is particularly useful at the current time, because Zambia, like many of its neighboring countries, has made great strides in recent years to liberalize trade and investment policies at the macroeconomic level and has begun to grapple with issues of public sector reform.

USAID, in consultation with the Zambia Investment Centre, has commissioned The Services Group (TSG) to conduct the Zambia Investor Roadmap.

The successes of Zambia's liberalization and privatization strategies have contributed significantly to the growth of inward investment in Zambia since 1991. Nevertheless, the policy and regulatory environment for private business establishment and expansion remains less than ideal. Most reforms to date have targeted highly visible matters such as taxes, tariffs, and monetary and exchange rate policies. The importance of these reforms should not be underestimated. However, Zambia's successes in rapid privatization, lifting exchange controls, and stabilizing the currency have overshadowed the need for "second-tier" regulatory and policy reforms.

While the overall logistical and administrative environment for new business in Zambia is considerably better than in many other African countries, it still falls short of what many investors have come to expect, and of what will facilitate high levels of foreign and local private investment. Some of the constraints – when looked at individually – may appear to be mere annoyances rather than binding constraints. However, when grouped together as a whole, these constraints can deter new investment, raise the cost of doing business, and stunt private sector development in the country.

The goal of the Investor Roadmap study, then, is three-fold:

1. To develop a comprehensive investment guide, detailing step-by-step all licensing and regulatory requirements an investor must fulfill to become fully operational
 2. To identify existing bottlenecks and inefficiencies, and to make recommendations on how best to streamline them
 3. To analyze other factors impacting the investor that result from the legislative environment
-

The approach to the study has been developed and refined in similar projects conducted by TSG in Bolivia, Chile, the Dominican Republic, Ghana, Hungary, Madagascar, Malaysia, Mongolia, Namibia, Tanzania, South Africa, and Uganda. The Roadmap

Model is composed of 13 core processes divided into four process groups over two phases of investment, start-up and functioning. As shown in Figure 2.1, the four process groups include:

- **Employing** issues, including obtaining temporary and permanent residency permits for investors, securing employment permits for expatriates, and handling local labor relations
- **Locating** issues, including purchasing land, transferring deeds, developing land, and complying with environmental laws
- **Reporting** to government, including registering a business, acquiring incentives, applying for specialized licenses, and registering for and paying taxes
- **Operating**, which includes importing, exporting, acquiring foreign exchange, and repatriating profits

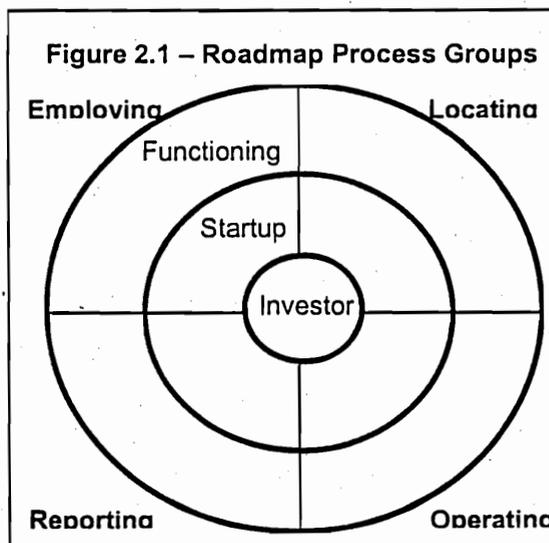


Table 2.1 summarizes the 13 core processes within the four process groups described above.

In part because this study has been conducted with help from the Zambia Investment Centre, an agency geared toward attracting foreign investment, the Roadmap is presented largely from the perspective of a foreign investor. The investor's perspective is also useful because it allows the public sector to see how an individual agency's policies and practices affect a broader, multi-agency process. Because foreign investors are required to undertake some steps not required of Zambian investors (e.g. immigration permits, repatriating profits), this study is more comprehensive than if it were just to focus on the local investment perspective. Nonetheless, the Roadmap is still relevant to local investors, who are subject to the vast majority of steps outlined. In addition, particular attention is given throughout the study to the small to medium-sized investors (many of whom are Zambian) who may be disparately impacted by various regulatory procedures.

The report is structured in two parts: (1) the procedural Roadmap itself and (2) a special focus on investment climate issues and trends in the Zambian agriculture and tourism sectors. The Roadmap section is divided into four chapters representing each process group. Each section is then composed of two components, process and analysis.

The first step of the process component is to document, in as much detail as possible, the various steps required of a new business to establish itself and begin operations, in full compliance with existing laws and regulations. The licenses or approvals required, their application procedures, and criteria for qualifications are all detailed. The fees or processing payments are noted, as are typical processing times for each step. In most cases these are average processing times reported by the agencies for projects with no unusual characteristics or problems. Actual processing times encountered by firms may well be significantly longer, and the analysis section of the Investor Roadmap reflects where the public and private sectors disagree on how long a given procedure takes. The annexes to the report include copies of all the principal forms required for each step at each agency, fee schedules, and relevant contact information.

Process components are followed by an analysis in which policy and procedural issues are identified and discussed, with recommendations for streamlining made where appropriate. The analysis section highlights areas of concern, notes disagreements between the government's perspective and the business community, and adds a contextual dimension to the report's treatment of procedural issues. Recommendations are based on the twin objectives of simplifying application procedures for investors while enhancing the ability of government to regulate and screen key information properly.

The report is intended to invite responses from the concerned agencies in order to identify means of streamlining the overall process. The recommendations made are not intended to be definitive, but suggestive, and to encourage those professionals involved to work together to address the current problems and impediments to sustained economic growth.

Table 2.1 details the 13 core processes analyzed in the Zambia Investor Roadmap and provides some general observations from previous roadmap experience.

Table 2.1: Investor Roadmap – 13 Core Processes

	Process	Stage	Description	Notes From Previous Roadmap Experience
Employing	1. Investor permit	Start-up	Applying for permit	In many cases, the most time consuming and frustrating part of foreign investment.
		Functioning	Renewing permit	Usually does not fall on critical path. However, the need for renewal creates risk for the investor.
	2. Expatriate work permit	Start-up	Applying for permit	In many cases, this may be critical to the success or failure of the investment. Also very bureaucratic.
		Functioning	Renewing permit	Becoming a problem as many countries are clamping down on repeated renewals.
	3. Local labor	Start-up	Hiring workforce	Usually not very bureaucratic, if any government involvement at all.
		Functioning	Managing workforce	Many facets, including collective bargaining, dispute resolution, PAYE collection, etc.
Locating	4. Acquiring land	Start-up	Purchasing land	-Can be the most difficult and confusing. Can make or break investment.
		Functioning	Expansion	Not usually a critical factor in investment decision-making.
	5. Transferring ownership	Start-up	Transferring deeds	Can be a problem in some countries lacking sophisticated systems.
		Functioning	- none -	
	6. Developing land	Start-up	Planning and construction	Problems can occur especially with utility connections. Usually high variability between town planning offices.
		Functioning	Expanding facilities	See above
	7. Environmental compliance	Start-up	Environmental design	In many cases, this is not a major cause for concern in developing countries.
		Functioning	Monitoring	Inspections sometimes lack transparency.
Reporting	8. Registering and licensing	Start-up	Applications	Can be complicated, and potentially a source of corruption, but usually timely in most countries.
		Functioning	Renewals	Usually not an issue.
	9. Registering and paying taxes	Start-up	Registering as taxpayer	Usually not an issue.
		Functioning	Paying taxes	Can be overly complex, inconsistent from year to year in some countries.
	10. Acquiring incentives	Start-up	Applying for incentives	Can be very complicated, lengthy. Causes frustration for investors.
		Functioning	Claiming incentives	Must be timely to avoid bad reputation in investment community.
Operating	11. Importing / exporting goods	Start-up	Importing machinery and raw materials	Can be very complicated, especially with valuation issues. It is critical that goods get cleared quickly ; this can have a negative impact on the business.
		Functioning	Importing and Exporting goods	See above
	12. Repatriating profits	Start-up	Registering with bank	Not usually a problem in liberalized economies.
		Functioning	Repatriating profits	Can be very problematic in certain countries and potentially a deterrent to investment.
	13. Getting foreign exchange	Start-up	Registering with bank	Not usually a problem in liberalized economies.

Employing

This chapter provides a guide to investor entry and general labor requirements in Zambia, including acquiring immigration permits, obtaining visas, and hiring expatriate and local labor.

3.1 Foreign Investor Entry Requirements

Technically, all foreign investors that conduct business research or negotiations are required to obtain a visa to enter Zambia. All foreign investors that start a business in Zambia are entitled to a self-employment permit or an entry permit.

The Department of Immigration, under the Ministry of Home Affairs, is responsible for administering and controlling the entry of foreign nationals into, and their residence in, Zambia. Current immigration policy is embodied in the Immigration and Deportation Act of 1997, cap. 123. Application procedures for a foreign investor to obtain a visa, a self-employment permit, and entry permits, as well as procedures for obtaining an employment permit, are outlined in the following section.

Visa Requirements

The Department of Immigration issues two types of visas: visiting permits and study permits. The study permit is not detailed in this report.

The procedures for obtaining a visa to visit Zambia depend on a visitor's nationality. One universally applicable requirement is that all visitors in Zambia must have "return air tickets if traveling by air, or... sufficient funds to cover the cost of their return journey."

Citizens of francophone West African countries, New Zealand, and the United Kingdom must obtain visas directly from the Chief Immigration Officer or the Zambian missions in Botswana, the Democratic Republic of the Congo, India, South Africa, or the UK. Nationals from Cyprus, Greece, India, Lebanon, Liberia, Pakistan, Somalia, and Sri Lanka must apply for visas directly from the Chief Immigration Officer in Lusaka. Applications are accepted via post or in person, and visitors are advised to apply for a visa one month prior to entering Zambia.

Citizens from Angola, Burundi, Comoros, Djibouti, Ethiopia, Rwanda, and Sudan may obtain visas from Zambian missions overseas or at Zambian border posts.

Romania, Ireland, and Yugoslavia have entered into reciprocal visa agreements with Zambia, and thus the citizens of these three states do not need visas to enter Zambia. Citizens from Commonwealth countries, with the exception of Bangladesh, the Gambia, Ghana, India, New Zealand, Nigeria, Pakistan, Papua New Guinea, Sierra Leone, Sri Lanka, and the United Kingdom, also do not need visas to visit Zambia. Nationals from

Denmark, Finland, Norway, the Netherlands, and Sweden are also exempt from applying for visas to visit Zambia.

In order to explore commercial or trade possibilities in Zambia, enter into formal business negotiations, or conduct a feasibility study, an investor initially enters the country on a visitor's visa that is generally valid for three months.

Visa applications are reviewed by the local mission, and visas are issued within three days. Required documentation includes:

- Application forms for a visa in duplicate
- Two recent passport-sized photographs
- Valid passport
- Cover letter or copy of a work permit from an authorizing sponsor or a prospective employer specifying in brief detail the nature of the intended business transactions in Zambia (for people travelling on business contracts, seminars, or study-related trips)
- Visa processing fee of US\$25 for single entry (valid for three months), US\$40 for double entry (valid for six months), and US\$40 for multiple entry (valid for three to six months).

If an investor must extend his stay beyond three months, the Department of Immigration normally issues a temporary permit valid for another three months. This permit may not exceed three months in duration without extension and may not be extended to cover a period in excess of twelve months. To obtain a temporary permit, an investor must submit an application fee of K400,000 (US\$216) and a letter of request that briefly details his or her business activities and the reason for requesting a temporary permit. The renewal of this permit requires the submission of an application form (Form 10) to the nearest immigration officer along with a renewal fee of K600,000 (US\$324). The duplicate fee is K18,000 (US\$10).

Obtaining a Self-employment Permit

Officially, an investor needs a self-employment permit to establish a business in Zambia. Applications are made to the Chief Immigration Officer in Lusaka. The Department of Immigration states that it usually takes two weeks to process a self-employment permit. The Immigration and Deportation Act states that self-employment permits cannot be extended beyond a total of five years. Typically, the Chief Immigration Officer issues a self-employment permit for an initial period of one year, and extends it for an additional three years for a total of four years, before an investor can obtain an entry permit, which confers residency status. Immigration and ZIC officials agree that obtaining an investment certificate facilitates issuance of a self-employment permit. To obtain a self-employment permit, an investor with an investment certificate must fill in the application form (Form 10) and attach:

FIGURE 3.1: EMPLOYING

ACTIVITY	DURATION												FEES	
	2 Months				2 Months				2 Months					
Obtaining Visitor's Visa ¹													3 days	US\$25 single entry (for 3 months)
Acquiring Investment Certificate													2 months	VAT processing fee + US\$1,000 Certificate
Obtaining Self-employment Permit ²													2 months	K100,00 (US\$54) application fee, K90,000 (US\$49) renewal fee
Obtaining Employment Permit ³													7 weeks	K400,000 (US\$216) for application, K600,000 (US\$324) for renewal

FOOTNOTES

1 Double entry is US\$30 and multiple entry fee is US\$40.

2 Processing times range from 2 weeks to 3 months

3 Processing times range from 2 weeks to 3 months.

- Two passport photos
- Bank statement as proof of available capital
- Valid copy of Certificate of Registration of business
- Copy of the investment certificate issued by the Zambia Investment Centre
- Application fee of K100,000 (US\$54).

Investors are not obliged to obtain an investment certificate, but without it they are required to submit a business plan, curriculum vitae, and information about the planned amount of investment capital in addition to the documents listed above. An investor who is denied a self-employment permit can appeal to the Minister of Home Affairs. If directed by the Minister of Home Affairs, the Chief Immigration Officer can be compelled to issue a self-employment permit to any eligible person within Zambia.

Renewal of Self-employment Permit

Self-employment permits must be renewed as they expire. Applications for renewal can be submitted to the Department of Immigration. In general, self-employment permits are renewed only once for three years before the applicant is requested to consider applying for an entry permit. An inspection of the project is conducted when a request for renewal is received, and renewals of entry permits usually take six to twelve weeks depending on the type and size of the investment involved. The application fee for renewal is K90,000 (US\$49).

To renew a self-employment permit:

1. Investor applies to the Immigration Headquarters in Lusaka.
2. Investor pays the required fee and collects a letter of receipt for the fee and application.
3. Immigration Headquarters sends to the regional Immigration Office a letter saying that the investor must arrange for an onsite inspection.
4. Investor arranges for the transportation and cost for the onsite inspection.
5. District Immigration Office sends an inspection officer to the site of the investor's business to verify the physical existence of the investment, count the number of employees and assets, and examine bank records.
6. District Immigration Office writes a report based on its inspections and forwards it to Immigration Headquarters in Lusaka.
7. Immigration Committee reviews the application and makes a decision about renewal.

An investor expecting to leave Zambia temporarily during the valid period of the Self-employment Permit may do so until his permit expires.

Related Fees

Issuance	K100,000 (US\$54)
Renewal	K90,000 (US\$49)
Variation by addition of a new business	K90,000 (US\$49)
Duplicate	K90,000 (US\$49)

Obtaining an Entry Permit

An investor holding a self-employment permit for a period of four years becomes eligible for an entry permit, which entitles the holder to enter, re-enter, and remain in Zambia, and engage in the occupation specified by the permit. All applications are considered by the Chief Immigration Officer. Immigration officials state that processing times range from two to three weeks.

An entry permit becomes invalid if the holder does not enter Zambia within six months of the date of issue, or if he or she is absent from Zambia for a period in excess of six months without notifying the Chief Immigration Officer, in writing, that he or she proposes to return to Zambia. An entry permit will also no longer be valid if a person is absent from Zambia longer than twelve months. To obtain an entry permit, an investor must

1. Fill in the application form (Form 3) in duplicate, and have it attested by a Magistrate or Commissioner for Oaths before dispatch, or if in a foreign country, by a Zambian consul or, if there is no Zambian consul, by a British consul
2. Attach the following documents to the application:
 - a) Two passport photographs
 - b) Certified copy of birth certificate
 - c) Certified copy of marriage certificate
 - d) Documentary evidence of divorce or legal separation
 - e) Documentary proof of professional or other qualifications, training, and experience
 - f) Two testimonials of character from persons of standing who have known the applicant for some years
 - g) Documentary evidence of employment offer, indicating occupation, employer, conditions, and salary
 - h) If applicant intends to establish his or her own business, a detailed business plan as a separate attachment
 - i) Certified copy of any certificate of citizenship
3. Pay the application fee of K100,000 (US\$54)

Once an application is approved, the applicant is required to submit a certificate signed by a radiologist within the preceding six months showing the applicant to be free from active pulmonary tuberculosis at the time of entry to Zambia.

If denied an entry permit, an applicant can appeal to the Minister of Home Affairs, and the Minister can direct the Chief Immigration Officer to issue an entry permit. After ten years, including four years on a self-employment permit and six year on an entry permit, an investor is invited to apply for Zambian citizenship through the Ministry of Home Affairs' Passport and Citizenship Office.

however, the Immigration Department and others in the Ministry of Home Affairs are perceived to be highly suspicious of the business community and expatriates in particular.

- Many in the Zambian business community state that the Department of Immigration's estimates of how long it takes to obtain various permits is highly optimistic. For example, whereas the Department of Immigration says that it takes an average of 2 weeks to approve an application for a self-employment permit, many investors interviewed said that the process typically took 4 to 12 weeks, with longer delays reported. Several investors said that obtaining an entry permit took as long as 12 to 24 months. The Department of Immigration noted that delays routinely occur due to its reliance on mailing permits through the Zambian postal system, which, officials state, can take up to two months to deliver a letter within Lusaka.
- Businesses engaged in trading and, to a lesser extent, services complain that they are not considered *bona fide* investors by immigration officers and thus face difficulty obtaining self-employment permits. Immigration Officers agree that they don't tend to regard traders as "serious investors," and, resultantly, rarely approve their requests for Entry or Self-employment Permits. Representatives of existing businesses have noted that the services sector in Zambia is generally inadequate in terms of the number of firms and the quality of services offered. The Department of Immigration asserts that it readily allows professionals such as land surveyors and consultants to obtain permits, even though they may not have an abundance of working capital or physical assets. Officials from other Zambian government agencies and some in the private sector suggest that the Departments of Immigration and Labour are biased against service providers and traders. Furthermore, there is sharp disagreement about the quality and availability of data about what types of businesses Zambia needs and local labor capacity, raising concerns about how well informed the Immigration Committee is when assessing an applicant's potential benefit to Zambia. Foreign chain stores seem to be the only trading businesses that are treated as foreign investors.
- Numerous investors interviewed complained that application files are routinely lost (permanently or temporarily), thereby causing delays and, in some cases, creating the need to refile an application. The Department of Immigration concedes that in some circumstances files may not be immediately available, but downplays the length of time a file is missing or the burden that this imposes on applicants. At the same time, the Department of Immigration suggests that computerization would greatly improve their record-keeping functions. Also, the Immigration Department routinely asks investors to follow up on an application either in person or by phone. Some investors suggest that this need to follow up on an application creates unnecessary time and financial costs, especially when an investor must come to Lusaka to do the follow-up, and indicates that the internal administrative and record-keeping procedures of the department can be improved. An interviewee indicated that he had to visit the district and headquarters offices of the Department of Immigration for a total of 16 times to renew his self-employment permit. While the Department of Immigration views this request for follow-up as an attempt to

communicate with the public, many investors suggest that this attests to the fact that the department does not have clear procedures and does not commit to responding to applications in a consistent and timely fashion.

- An investor may not apply for a self-employment permit or an entry permit at a Zambian embassy overseas. Rather, he must file an application via mail in Lusaka. This lack of capacity at Zambian embassies creates an extra cost and time delay for an investor who has made the decision to invest after he returns to his home country.
- Investors without an investment certificate are required to submit detailed business plans to evaluators who typically are not skilled in the evaluation of such plans, and immigration officials concede that their onsite investigations of businesses are rather superficial. Numerous other public agencies, several of which are more qualified to assess a business plan or progress in starting a company, review proposed investments and conduct inspections, and investors widely regard the immigration inspections as one of many unnecessary burdens imposed by the Zambian government. It is unclear why the Department of Immigration will not rely on other agencies to satisfy its reporting requirements.
- As with other inspections in Zambia, investors and public officials alike state that the private sector is usually responsible for arranging and paying for Department of Immigration inspectors' transportation and incidentals. Not only is this an unusual burden to be asked of the private sector, it represents significant cost in time and money, especially for rural enterprises. Furthermore, many businesspeople assert that the Immigration Department does not conduct a meaningful inspection anyway, and does not have staff who are able to render a qualified judgment about a company's accounts or progress in commencing operations. The Department of Immigration states that while its inspections are not detailed, it often lacks the resources to finance its inspections, and it lacks personnel specialized in evaluating business plans, account books, or projects, it nevertheless has a responsibility to conduct inspections.
- Although unrelated to investor entry *per se*, one concern related to immigration is that of officials charging visa fees for tourists who should be exempt. Many tour operators report that Zambian immigration officials do not honor the provisions that allow tourists to enter the country and charge tourists a visa fee upon entering Zambia. Because most tour operators have included this incentive in their promotional materials, they feel obligated to refund the visa amount to their customers, thereby incurring a per person loss in profit.
- Given the fact that multiple-entry visas cost the same as double-entry visas and allow a visitor to travel more frequently and for a longer duration in and out of Zambia, the value of a double-entry visa at the current price is unclear.

Recommendations

The following are some recommendations to improve the foreign-investor entry process:

- The immigration process requires a clearer set of guidelines available to both the public and the officers involved. The Ministry of Home Affairs should consider expanding its series of publications aimed at assisting applicants through the various immigration procedures, including the issuance and extension or renewal of visas and permits. While the Department of Immigration has posts information, it is not complete and does not commit to reviewing applications within a specified timeframe. The department should vigorously and quickly revise the 1987 Rules to Govern Contract Remittances and Employment Permits for Expatriate Personnel, and the Department of Immigration should make this publication readily available. This document should include the definition of foreign investment, criteria used to evaluate applications, time frames within which applications will be reviewed, how the department will communicate its decisions, and restrictions as to the type of businesses allowed in Zambia, if any.
- The structure of the Immigration Committee should be reorganized to include the perspective of the Zambian business community without jeopardizing any security-related functions. One possible way to achieve this may be to include private-sector representatives on the Immigration Committee; this will improve collaboration between the government and the private sector. A second option is to include representatives from the ZIC or the Ministries of Trade, Commerce and Industry, or Finance.
- There is significant disagreement between the public and private sectors about the speed with which permit decisions are made by the Department of Immigration, and at the same time the department admits that it faces some obstacles in providing timely and efficient service. The Department should introduce measures to ensure that decisions are reached quickly. The department should develop an internal tracking system so that files are not misplaced, and officials should be held accountable for losing or misfiling applications. If the Department of Immigration considers ZAMPOST an unreliable vehicle for delivering its permits, it should devise another mechanism for communicating with applicants and sending permits. One possible solution is to raise permit fees to include the cost of delivering permits via DHL or Federal Express courier services.
- In order to facilitate processing applications from a foreign country, foreign missions should develop consular capabilities. At the very least, overseas missions should start accepting applications for permits and transfer these to immigration headquarters via e-mail or fax so that Lusaka may process applications while the physical documentation is en route from the foreign missions to Lusaka.
- Because the Department of Immigration admits that it does not have the trained staff or resources to review business plans and inspect a business's operations except in the most superficial manner, it should accept the findings of more qualified public agencies, such as the Investment Centre. Furthermore, investors suggest that they are burdened by entirely too many ineffectual yet officious inspections in Zambia, so

better coordination among regulatory agencies is required. Alternatively, the Department of Immigration could charge appropriate fees to offset the cost of hiring a competent private company to conduct its inspections.

- Immigration should ensure that their border officials understand the visa fee exemptions for tour packages and cease charging those who are exempt. As a potential source of significant revenue, all organs of the Zambian government should act in consort to promote tourism.
 - Given the relative attractiveness of the multiple-entry visa in terms of price and convenience, the Department of Immigration should either eliminate the double-entry visa or alter its fee structure to provide an incentive for visitors to apply for one.
-

3.3 Requirements to Bring In Expatriate Labor

An employment permit is required before a foreigner can start work in Zambia. Bringing expatriate labor into the country requires that investors apply for employment permits for their prospective employees.

Application Procedures for Obtaining Employment Permits

Applications for employment permits must be submitted to the Chief Immigration Officer in Lusaka for consideration. Employment permits are generally issued for an initial period of up to three years and extended for another two years, after which a fresh application must be submitted to the Immigration Department for renewal. One factor that influences the duration of an employment permit's validity is the expiration date of an expatriate's passport. Employment permits are normally granted on the condition that the investor has made an attempt to fill the opening with a Zambian national and no suitable candidates were found. Earlier restrictions on the issuance of Employment permits were changed by the Investment Act of 1996 (as amended). This act provides that an investor who commits a minimum of US\$250,000, or the equivalent in convertible currency, and employs a minimum of ten persons is entitled to a self-employment or entry permit and will be assisted by the Investment Centre in obtaining employment permits for up to five expatriate employees.¹ The Department of Immigration suggests that it will consider more than five applications for employment permits if each candidate is qualified and not duplicative of a Zambian national.

Once the application is filed, one of the four section officers who accept application packages in the Department of Immigration checks for the completion of all papers prior to accepting the requisite fee and issuing a receipt. Then the Immigration Committee, which meets every Thursday, convenes and reviews the application. Approvals of employment permits may take from two weeks to three months.

The following documents must be submitted for this application:

¹ As stated in the Investment Act of 1993, which is amended by 1996 and 1998 acts.

- Application form (Form 10, same form as used for self-employment permits)
- Certified copy of the applicant's highest educational status and any additional qualifications, plus certificates of employment² from previous employers
- Letterhead from the prospective employer explaining steps taken to employ Zambian citizens to fill this vacancy
- Application fee of K400,000 (US\$216)

Renewals

Employment permits must be renewed when they expire at the end of five years. Applications for renewal are reviewed by the Department of Immigration. Typically, employment permits are renewed once for three years before the applicant is requested to consider applying for an entry permit.³ The fee for the renewal is K600,000 (US\$324). At the time of application, the individual must submit a declaration from the employer that (1) the applicant is still employed by the organization, and (2) there is still no suitably qualified Zambian citizen to replace him or her. The following must be presented at the time of application:

A complete immigration fee schedule is presented in Annex B of this report.

3.3.1 Analysis

Issues

According to the business community, obtaining employment permits for expatriate staff is the most problematic employment-related process in Zambia. The issue involves both policy and implementation. The government's Zambianization policy, whereby indigenous Zambians are to be given preference for appropriate jobs and gradually replace expatriate managers at private companies, is cause for concern for some in the private sector, because it intrudes into the decision-making process of companies. Some in the private sector suggest that if Zambia truly wants to promote private participation in the economy, the rights of investors to hire whomever they want must be protected. Given the fact that Zambian labor is less expensive than foreign labor, these businesspeople argue, a company's own self-interest would achieve the government's goal of increasing employment among appropriately trained Zambians.

Others in the local business community suggest that while they are sympathetic to the government's policy of ensuring that Zambians get first consideration for new jobs, the government's implementation of its policy has the effect of discouraging new investment and creating considerable risk for operating businesses. Most investors agree that the process of acquiring an employment permit is lengthy, nontransparent, and risky for an investor. The risk is caused when an investor has committed to operate a business

² The Labour Law requires every employer to issue a certificate of employment to any employee he terminates.

³ See the previous section for the procedures for obtaining an entry permit.

without knowing for certain who his or her staff will be and how long they will be allowed to work in Zambia. The following specific issues were identified as a result of the analysis of the Employment Permit procedures:

- The same concerns about the transparency of the Department of Immigration's review process apply to employment, self-employment, and entry permits. The Department of Immigration suggests that the government has clear guidelines relating to what types of workers are allowed to receive employment permits, and immigration officers also state that they follow well-established procedures for reviewing applications. Immigration officials suggest that if a problem exists, it is one of public relations and resource constraints versus organizational effectiveness. Members of the Zambian business community characterize the Department of Immigration's problems differently, asserting that no consistent standards are applied to employment permit applications and the discretion of an individual within the department or on the application review committee is of paramount importance. As a result, employers say, they rarely know if applications for initial and renewed employment permits will be judged favorably, adding to the frustration and risk associated with doing business in Zambia.
- Many in the business community perceive that the methodology employed by the Departments of Immigration and Labour for determining what skills are available locally lacks thoroughness and consistency. The decision to approve applications seems to be based on the Chief Immigration Officer's discretion, many private companies report, and the Department of Immigration does not seem to assess accurately what skills are unavailable. Few in the private sector believe that the Department of Labour, upon which the Department of Immigration relies for information about available skills in Zambia, has an accurate sense of the skill level and quality of Zambian workers.
- It is unclear to investors and many government officials whether or not the investment certificate issued by the Zambia Investment Centre *automatically* grants the right to bring in five expatriate employees or merely *helps* in some vague way. Furthermore, investors understand why all companies should have no more than five non-Zambian employees. Most in the private sector suggest that the act clearly states that qualified investors are guaranteed the right to bring in five expatriates, regardless of whether or not they represent skills not found in Zambia. Immigration officials state that the department does not interpret the act to mean that five and only five expatriates are automatically allowed to get an employment permit, and the Committee closely scrutinizes all applicants' backgrounds to assess if they are replacing qualified Zambians. Thus, immigration officials state, one company might be able legally to bring in ten qualified nuclear engineers, while another company would not be able to bring in a single driver or personal cook.
- As with the self-employment permit, the process of acquiring an employment permit is reported by investors to be too slow. Investors perceive that the amount of time it takes to get a permit depends on how strong a case one builds, and at the same time investors are rarely clear what the committee is looking for. The Department of

Immigration says that the vast majority of applications are processed within two weeks, but many in the private sector state that response times tend to take six to eight weeks. Several investors state that personal attention, including visits to immigration headquarters in Lusaka and regular phone calls, is required to ensure that an application moves through the review process. The business community reports that delays are also due to files being lost. The Department of Immigration suggests that due to its inability to communicate effectively through mail, fax, or e-mail, it requests applicants to stop by or call about applications. Also, the Department of Immigration denies that files are ever lost, but concedes that computerization would improve its ability to track files.

Investors suggest that the length of time it takes for decisions to be made about employment permits adds risk to an already uncertain process. In many instances, a foreign investor is compelled to invest his or her capital and start operating a new venture before knowing whether he or she will be able to bring in key expatriate managers. This element of uncertainty, which makes anything beyond short-term planning impossible for both the employee and the employer, must be viewed as a significant constraint for firms requiring workers with skills and experience unavailable in Zambia. Furthermore, many business leaders perceive that the GRZ's Zambianization policy means that even after getting an employment permit, key managers may still face the threat of deportation at renewal time. Several company executives noted that expansion projects and new investments had to be delayed or cancelled because they were unable to obtain permission to bring in specialized expatriates to work in Zambia.

- Some business leaders say that the Immigration Department's tight screening of would-be foreign managers, motivated by a concern for improving the lot for Zambian workers, can retard skills transfer. Policies that limit the growth of companies and prohibit the legal entry of skilled managers who can offer training to local Zambian staff undermine the development of Zambian labor, many businesspeople assert. Furthermore, while there is pressure for companies to replace expatriate managers with Zambians, the government does not provide sufficient incentives or support to ensure that skills are transferred. Several company executives noted training programs had to be cancelled because they were unable to obtain permission for specialized expatriates to work in Zambia.
- Renewals for employment permits are not granted automatically, and at the same time businesspeople report uncertainty about what is required of them to meet the requirements for Zambianization. The possibility that, due to Zambianization, key managers can be deported at renewal represents considerable risk to investors. Some businesspeople state that they, not the government, should decide when an expatriate manager can be replaced by a Zambian.

Recommendations

Lifting all restrictions on immigration by registered investors would greatly increase an investor's flexibility and autonomy in making staffing and corporate planning decisions. If the GRZ considers it necessary to retain these restrictions, however, they should at least be rationalized to achieve the policy goals they were meant to achieve. The following are some recommendations to improve the employment permit application and issuance procedures:

- The Department of Immigration must make the process for considering employment permits much more transparent. The department's criteria for considering an application, the time frames in which decisions are made, and the responsibilities that an employer has in Zambianizing its workforce should be detailed, published, and widely disseminated.

To increase the level of transparency and accelerate the review process, it is recommended that a short list of specialized skills that are locally unavailable be published. For example, medical doctors, engineers, and production managers could be included on the short list, and employers could be exempted from going through the long advertising and approval process for these positions. In the same fashion, a negative list of manual occupations that are locally available could be established. This procedure will achieve two major goals. First, it will eliminate the need to process applications that are doomed to rejection because the type of worker involved is obviously in abundance in Zambia, thereby lessening the burden on immigration officers in Lusaka. At the same time, workers that are in high demand in Zambia could be granted permits more automatically. Second, it will bring consistency and speed to the process, because as some applicants are quickly rejected or accepted based on clear and publicly available criteria. Additionally, the application review criteria should be flexible and specific enough to accommodate both agricultural enterprises, in which field and management experience in a particular crop may be more important than having a college education, and technology-oriented businesses, in which having an advanced degree may not mean that one is qualified to manage a specific technology or process.

- Transparency is linked to the methodology used to assess the skill deficits that exist in Zambia. As part of the current process to revise the Rules to Govern Contract Remittances and Employment Permits for Expatriate Personnel, the Department of Labour should create credible regional lists of skilled workers in Zambia. These lists should be regularly and accurately updated. This information should be better integrated into Immigration's process of screening candidates applying for employment permits. The Department of Labour should increase its collaboration with the Immigration Department in this area.
- Instead of limiting an investor to an arbitrary five expatriate employees (a large high-tech manufacturing company would likely require dozens of expatriates, and a farm may require only one or two), the GRZ should instead let investors bring in as many qualified expatriates as necessary to start up and run a business. The Department

of Immigration has indicated that in practice it allows for such flexibility already; this approach should be clarified and systematized.

In the meantime, the law and the Department of Immigration's policy guidelines for implementing the law must be clarified (e.g., in a situation where five expatriates are automatically guaranteed work permits after an investor has committed \$250,000 and employs ten people). Public officials state that there are contradictions between the Investment Act and other acts relating to employment and immigration, and these pieces of legislation should be harmonized to create a more stable environment for investors.

- The Government of Zambia should consider simplifying and streamlining the procedures for approval of permits. The Department of Immigration must improve its review times and find ways to be more efficient in handling and tracking files. Computerization will help in this endeavor, but a renewed commitment to customer service and taking responsibility for case files is also encouraged. It is also useful to set a short time limit for processing the application forms. As noted earlier, if ZAMPOST is an unreliable mechanism for communicating with applicants, other means should be identified.
- The GRZ should assess its programs aimed at increasing the skills of Zambian workers and increase private participation in the process. A critical facet of improving the Zambian workforce, especially in the arenas of new technologies, management techniques, and production methods, involves allowing qualified expatriates to live and work in Zambia.
- Another area of concern is that the Department of Immigration expects investors to Zambianize key positions within a number of years. Investors suggest that their concerns about immigration do not, therefore, end when an employee is granted an employment permit. Not knowing if a key manager will be deported when his or her employment permit expires represents considerable planning problems and causes great consternation among many in private business. Furthermore, the private sector does not generally trust the Ministry of Home Affairs' assessment of how easily and quickly certain positions can be Zambianized.

3.4 Local Labor

In general, investors report that hiring local labor in Zambia is fairly easy due to the lack of regulatory constraints and the abundance of labor in the country. However, some companies report that termination of employment can be problematic and is often costly. The potential hassle and cost of terminating employees is more worrisome to smaller businesses than larger ones. Some larger companies suggest that planning for retrenchment packages is not a burden if a company plans appropriately and sets aside an adequate amount of money.

Several pieces of legislation affect the labor market in Zambia, including the Industrial and Labor Relations Act, the Employment Act, the Factories Act, and the Minimum Wages and Conditions of Employment Act. Labor conditions and industrial relations are governed by the Industrial and Labor Relations Act, the key piece of legislation, which provides the framework for dealing with the fundamental rights of employees and employers, and the Employment Act, which details the role of contracts in Zambian employment law. It contains provisions for workers' and employers' representative organizations, regulating provisions for recognition and collective bargaining agreements, settlement of collective bargaining disputes, strikes, and the establishment of the Industrial Relations Court and Tripartite Labor Consultative Council.

The Ministry of Labor and Social Security is divided into five departments:

- Labor
- Social Security
- Factories, dealing with occupational health and safety issues
- Productivity, with the objective of increasing productivity in Zambia
- Educational Occupational Assessment Service, which provides aptitude tests and counseling services for the public sector

Hiring and Terminating Procedures

An investor who seeks to employ local labor may advertise the opening or access one of the 20 Public Employment Service Offices in provincial town centers operated by the Department of Labor. However, due to an abundance of local labor, employers report receiving applications for open positions before they are advertised. If the employer decides to hire someone, the following procedure applies:

- 1) A record of the oral contract of service must be filed in duplicate.
- 2) The employer and the employee each keep a copy. In the case of a disagreement between the employer and the employee, the employee's word is binding if no records are signed or kept.

If the employer decides to fire an employee:

- a) If the employee to be terminated is unionized, the employer must sit and discuss the matter with the trade union and include a retrenching package. An employer must notify the local labor officer and give him the time frame and details of the benefits to be provided.
- b) If the employee to be terminated is not unionized, the employer informs in writing the local labor officer who is responsible for making sure that the employer observes the minimum requirements of the Labor Act and related legislation.⁴
- c) If the termination is due to theft or other reasons of cause, the employer has to inform, in writing, the Local Labor Officer within 4 days of firing. The employer has to

⁴ See the discussions of redundancy benefits under fringe benefits for the minimum requirements.

make sure the employee understands why he is terminated, specifying if the cause relates to incompetence or theft.

Section 64 of the Employment Act gives both employees and employers the right to complain about the other party due to any legitimate reason to a labor officer at a Local Labor Office. The Labor Officer may use collective bargaining to resolve the issue where applicable, and if it is not resolved at this stage he may opt to go for arbitration. For any labor and industrial relations matters, the aggrieved parties can go to Industrial Relations Court. They may appeal to Supreme Court, if still unhappy.

Working Conditions

Unions

There are 25 registered trade unions in Zambia, each of which operates under the umbrella of the Zambia Congress of Trade Unions (ZCTU). Registered trade unions must act within the rules of the Industrial and Labor Relations Act. For a trade union to be established, 50 or more people must be active members. Any company with more than 25 employees is obliged, in accordance with the Industrial and Labor Relations Act, to sign a recognition agreement with the union, which affects the relation between the employees and the employer. These trade unions negotiate conditions of service for their members with employers either at the company or industry level, depending on the type of recognition agreements that are in place.

Generally, the collective agreements that are negotiated between management and unions apply to the unionized employees and cover such aspects of employment as grading and wages, hours of work, protective clothing, leave, and medical benefits. The collective agreements normally cover a period of two years, except for the "Wage Opener Clause," which may be negotiated annually, depending on the cost of living. This is a recent measure intended to take into account fluctuations in the level of inflation.

Until recently the practice in Zambia was "one union one industry." However, following the ratification of the International Labor Organization Conventions 87 and 98 on the freedom of association and the right to bargain, arrangements are under way to amend the Industrial and Labor Relations Act to accommodate these changes. Already some major unions such as the Mine Workers' Union of Zambia, Zambia National Union of Teachers, and Zambia Union of Financial Institutions and Allied Workers, have broken away from the umbrella organization (ZCTU), to form their own umbrella organizations.

Wages and Salaries

Employees in Zambia fall into two categories: the "represented" and the "non-represented." Management normally fixes the conditions and salaries for non-represented employees, while those for represented employees are negotiated through collective agreements. In addition, the Minimum Wages and Conditions of Employment Act provides a mechanism for determining statutory minimum wages and other

conditions of employment in industries in which conditions of employment are not regulated by a free collective bargaining system. The act empowers the Minister of Labor and Social Security to determine minimum wages and conditions of employment to apply in these industries. Through Statutory Instrument No. 119 of 1997, the minimum wage, excluding any amount paid in lieu of rations for general workers, cleaners, office orderlies or watchmen, was set at K245 (US\$0.13) per hour. The minimum wages are K62,000 (US\$34) per month for a driver, K65,000 (US\$35) for a clerk or receptionist, and K80,000 (US\$43) for a typist. Statutory Instrument No. 120 establishes the minimum monthly wage for shop workers in seven different grades ranging from K55,000 (US\$30) to K135,000 (US\$73).

Fringe Benefits

- **Pensions.** Membership in a pension scheme is a common condition of employment in Zambia. Contributions to the pension scheme are typically shared equally between employee and employer. Most employers provide pension benefits for their employees through the Zambia National Provident Fund (ZNPF). In addition to the ZNPF, some companies have established their own pension schemes, such as the one managed by Madison Insurance Company. There is also a small selection of privately managed pension schemes in Zambia, one example of which is Saturnia Regna Pension Trust Fund. The state-owned, Zambia State Insurance Company, which manages one of the larger schemes, is in the process of being privatized. Up to a maximum salary of K150,000 (US\$81), 3.5 percent of the employee's basic salary goes to the ZNP Fund, and the employer contributes the same amount, to a maximum of K10,500 (US\$6) per month.
- **Medical coverage and maternity benefits.** Some employers provide health and medical coverage through memberships to private clinics to which the employer and employee contribute equally. Other employers have their own company clinics and hospitals. The Minimum Wages and Conditions of Employment Act also obliges employers to grant an employee full pay should illness make the employee unable to work, subject to the production of a certificate from a registered physician. The maximum period for which such benefits are given is three months at full pay, followed by another three months at half-pay. The act also provides that female employees be paid maternity leave up to a maximum of 90 days provided they have worked for the employer for a minimum of 24 months.
- **Housing.** Act 15 of 1997 amended the Employment Act, thereby overturning the statute that mandated that employers either provide housing for employees or pay a housing allowance. Currently, an employer may provide such benefits if agreed by mutual consent under a collective agreement registered under the Industrial and Labor Relations Act, a contract of employment, or general conditions of service to that organization.
- **Overtime.** The collective agreement covering a given sector normally stipulates the hours to be worked. Normal working hours for general employees are not to exceed

45 hours per week. Office hours in Zambia are typically from 0800 to 1700 hours Monday to Friday and 0800 hours to 1300 hours on Saturday. Outside the retail sector, most companies do not open on Saturday. Overtime is paid at one and a half times the normal rate for weekdays and extra hours on a Saturday, and twice the normal rate for Sundays. Overtime accrued on public holidays amounts to twice the regular wage plus an extra day's pay.

- Paid holidays and vacations. Zambia's official public holidays each year are published in advance. The limits for the annual vacation leave extended to employees are not stipulated by the Industrial and Labor Relations Act; they are dealt with in the specific collective agreements. Statutory Instrument No. 171 states that employers shall grant leave of absence on full pay at the rate of two days per month worked. As in many other countries in Southern Africa, industrial establishments in Zambia commonly close prior to Christmas and reopen after the first week in January. This period is referred to as the "industry break."
- Sick leave. An employee is granted paid sick leave at full pay for the first three months, and half pay for the next three months, given that he holds a medical certificate from a registered medical practitioner or medical institution designated by the employer. If the employee has not recovered at the end of six months, the employer may discharge the employee on the recommendation of a registered medical practitioner or medical institution designated by the employer. A female employee is granted leave of absence to enable her to nurse a sick child who has been hospitalized, and these days are not deducted from her accrued leave days. Some companies also grant female employees one day of leave per month to accommodate menstruation.
- Special leave and funeral assistance. The Minimum Wages and Conditions of Employment Act obliges employers to grant an employee seven days of paid leave on the death of a spouse, child, mother, or father. In the event of the death of an employee, spouse, or registered child, the employer is also obliged to provide funeral assistance in the form of a funeral grant consisting of a standard coffin, K50,000 (US\$27) cash, and one 50 kg bag of mealie meal.
- Transportation allowance. Unless the employer provides transport to an employee whose duty station is beyond a 3-kilometer radius from his area of residence, he is obliged to pay a monthly allowance of K10,000 (US\$5) for transport expenses.
- Lunch allowance. An employee is entitled to a lunch allowance of K10,000 (US\$5) per month unless the employer provides a canteen at which the employee may obtain "wholesome and adequate meals" free of charge.
- Redundancy benefits. The Minimum Wages and Conditions of Employment Act requires employers to pay at least one month's notice and redundancy benefits of not less than two months' basic pay for each completed year of service, in the event

of declaring an employee redundant (when the employee's contract of service is terminated by the reason of redundancy).

Employers' Organizations

The umbrella organization for employers is the Zambia Federation of Employers (ZFE). This organization articulates the interests of employers. ZFE is represented at the Tripartite Labor Consultative Council, which also includes representatives of government through the Ministry of Labor and Social Security, and the unions through the Zambia Congress of Trade Unions.

Industrial Relations

Strikes are legal, except in the case of the essential service sectors, such as hospitals, fire services, electricity, and water and sewerage utilities, provided that the procedures laid down in the Industrial and Labor Relations Act (Act No. 27 of 1993) have been followed. The right to strike is provided for under the same Act, but employers must consent to a strike for it to be considered legal.

Profit Sharing

Some profit-sharing schemes are in operation in Zambia, varying from business to business. In addition, several local firms have introduced share participation schemes for their workers, usually at the management level. In December it is also common for companies to pay a Christmas bonus, normally equivalent to a month's salary, to all levels of employees. Recently there has been a move in some companies to introduce performance-related bonuses, an endeavor that marks a significant departure from the parastatal-dominated approach of previous years, when bonus levels were more often related to length of service or hierarchical position.

Social Security

The ZNPF is due to transform itself into the National Pensions Scheme, although the timing for this transformation is still not known. The National Pensions Scheme Bill, No. 40 of 1996, has been approved by both the Parliament and the president. It is now awaiting the issuance of a statutory instrument by the Minister of Labor and Social Security. The new scheme which will cover all employees, will be a defined-benefit scheme (although the benefit is not defined in the act). The contribution rate for employers and employees is not yet known and will not be determined until an actuarial study has been conducted. Employers are also obliged by the Workmen's Compensation Act to make contributions for those of their employees who are likely to be exposed to accidents or occupational diseases. All Zambian companies are required to pay into this fund, and different industries pay different percentages, usually ranging between 2-4 percent of a worker's salary up to a maximum of K1.2 million (US\$649) per person.

Equal Opportunities

Zambian law and practice does not allow discrimination on account of race, tribe, place of origin, political opinion, color, creed, or gender. Act No 4. of 1991 essentially deleted all provisions relating to women from the principal act. This means that from its effective date women may be employed in night work and work underground in mines, without restriction.

Foreign Personnel

Since it is government policy to provide gainful employment for all nationals, in general terms, no reliance on foreign workers is sought except in areas where skills are scarce. There are no predetermined restrictions on the number of foreign employees who may be employed by a single employer. However, businesses are expected to localize employment as quickly as possible.

3.4.1 Analysis

Issues

- Historically, most employers in Zambia paid many allowances (including meals, transport, housing, laundry, water, electricity, uniforms, holiday travel, and children's education allowances, among others) in addition to base salary. Because allowances were either not taxed or taxed at a lower rate than basic salary, this practice was widespread among employers. In the last few years, however, the tax regulations have been changed. Virtually all allowances are now taxable, generally at the same rate as salary. For example, bonus pay in excess of K2 million (US\$1,081) is taxed at a rate of 10 percent. Still, many employers prefer to increase benefits rather than base pay because higher base pay leads to more costly severance packages. The high cost of terminating an employee, generous severance payments, and large number of annual leave days specified in the Labor Act is considered excessively rigid and costly by some investors. While some larger and well-capitalized companies do not regard the cost of retrenchment packages as a major concern, many smaller companies and those in the financial services sector tend to see this as a significant operating cost.
- Many companies are critical of the Zambian Provident Fund and Workmen's Compensation Fund because they represent additional financial and administrative burdens, and, based on inflation and the funds' administration, are of dubious benefit to workers.
- Some companies complain that the system for setting wages, which relies on the existence of sectional unions and business associations, is not responsive enough to small and hard-to-classify companies. Especially in the tourism sector, some companies find their employees covered by more than one union and employment agreement. In such instances, Zambian labor and commercial laws provide no effective recourse for the company to clarify its status, leaving it open to competing

demands by different unions. Companies within a given sector are bound by agreements negotiated by business associations, whether or not they are members. Thus, some companies feel compelled to join a business association that may be unresponsive to their needs or badly managed, for fear of lacking input crucial in wage and benefit negotiations.

- The legal system in general needs strengthening in Zambia, but one particular concern among investors is the slow pace and, at the lower levels, potential for corruption in the Zambian courts. Investors report that following the Ministry of Labour's regulations regarding the termination of employees does not necessarily protect a business from lengthy and costly law suits. While the Ministry's regulations are clear, there is no quick or easy way to dismiss suits that lack merit, and investors routinely either settle with a worker, whether or not the employee was fired for cause, or opt to finance a long and costly defense in a generally unsympathetic court.
- Recognizing the need for trained manpower, the GRZ says it encourages industry and commerce to invest in training. However, investors feel that the courses offered through the Department of Technical Education and Vocational Training are not necessarily aimed at the needs of their respective industry. Furthermore, many in the private sector suggest that they could more efficiently train Zambians if there was a more supportive policy environment for doing so.
- Many investors are not aware of the details of the labor laws in the country, such as the requirement for an employer to provide a terminated employee with a certificate of service. This suggests a lack of coordination between the Department of Labor and the Zambia Investment Centre in information sharing.

Recommendations

- The Department of Labour should consider reviewing Zambia's termination benefits with an eye toward bringing the country's retrenchment packages closer to world standards. For small companies especially, the relatively high cost of terminating workers can depress employment and encourage companies to retain ineffective workers, thereby reducing overall corporate efficiency in Zambia.
- In light of questions about their effectiveness and ability to provide meaningful benefits to Zambia's workers, the Zambian Provident Fund and Worker's Compensation Fund should be reorganized or eliminated in favor of effective private schemes to provide for retirement and disability benefits. Encouraging the growth of private-sector retirement and health care plans may boost efficiency and accountability in these areas, and justify the reporting and payment burdens now faced by employers.
- While the system of setting minimum wages through negotiations between trade unions and employer federations confers some advantages, the system in place must allow for increased flexibility for hard-to-classify and novel types of businesses.

Furthermore, a classification and dispute resolution mechanism should be introduced to help businesses appropriately characterize their workers and avoid being held to overlapping agreements.

- Transferring skills is often done best through market mechanisms, where the most in-demand skills are practically taught by practitioners to workers who can use the skills right away. If the GRZ is concerned about developing a more highly skilled workforce, it should adopt policies to encourage private companies to invest in training its local staff. Some such policies include: easing employment and visa requirements for expatriate managers; facilitating the importation and operation of new technology; introducing tax reductions or exemptions for the importation of educational materials or teaching technologies; tax credits for companies that offer approved training courses or stipends; public-private collaboration in designing professional certification schemes and publicly funded vocational and continuing education courses; and individual tax credits for individuals who volunteer to teach accredited, public training courses.
- The Zambian court system must process cases effectively in a timely fashion. Furthermore, there should be mechanism, perhaps akin to a grand jury system, that can determine whether or not tort cases should proceed, given the merits of a claim. Adding binding arbitration, small claims courts, and a commercial court will also increase the system's responsiveness to the needs of the public.
- Cooperation between the Zambia Investment Centre and the Departments of Labour and Immigration should be strengthened so that investors can be better advised about immigration- and employment-related matters. Toward that end, the Departments of Labour and Immigration must better coordinate policy and implementation strategies, and conflicts between the Investment Act and other legislation should be eliminated.

Locating

This chapter focuses on the various aspects of site development in Zambia, including land acquisition, building permits, factory layout, and utility hook-ups. Site location is the most logistically complicated process for a new investor in Zambia, given the wide array of potential players. Land may be leased from any of the many levels of government that possess land assets, or purchased or rented from individuals and companies. Building permits and utility hook-ups, particularly water and sewer, are obtained at the local level, with each locality prescribing slightly different procedures and requiring various processing times.

With this in mind, it is impossible to list, in detail, all the potential variations in application procedures. Instead, this chapter provides an overview of typical locating procedures and the range of processing times and costs a representative investor would be likely to encounter.

4.1 Acquisition of Land

All land in Zambia is vested in the President and is held by him in perpetuity for and on behalf of the people of Zambia. This authority is exercised by the Commissioner of Lands on behalf of the President. The Lands Commissioner may make an offer for any land of size equal to 250 hectares or smaller; for areas larger than 250 hectares, a lease must be approved by the Minister of Lands.

Restrictions on Land

A non-Zambian can be alienated land by the President if any one or more of the following conditions apply:

- He or she is a permanent resident in the Republic of Zambia, as validated by having an entry permit or citizenship
- He or she is an investor within the meaning of the Investment Act or any other law relating to the promotion of investment in Zambia
- He or she has obtained the President's consent in writing
- He or she inherits land from its rightful owner, whether Zambian or foreign

A foreign company may have access to land in Zambia if the company:

- Is registered under the Companies Act as a company and less than 25 percent of the issued shares are owned by non-Zambians
 - Is a cooperative society registered under the Co-operative Societies Act and less than 25 percent of the members are non-Zambians
-

Chapter 4 - Locating

- Is a statutory corporation created by an Act of Parliament
- Is a commercial bank registered under the Companies Act and the Banking and Financial Services Act
- Is granted a concession or right under the National Parks and Wildlife Act.

Figure 4.1 illustrates the durations and fees associated with acquiring and developing land in Zambia.



FIGURE 4.1: ACQUIRING AND DEVELOPING LAND

ACTIVITY	DURATION								FEES
	3 Months	1 Month							
Consent of the Chief								3 days	None
Recommendation from Local Council	→							2 months	None
Allocation of Land by Commissioner of Lands ¹		→						2 months	Varies
Issuance of Title ²			→					1.5 months	K26,000 (US\$14)
Obtaining Permission to Develop Land ³				→				2 months	K115,000 (US\$62) per sq meter
Obtaining Building Permit					→			3 months	1/400 of total project for "scrutiny fee"
Obtaining Occupation Permit						→		1 month	K25,000 (US\$14) inspection fee
Electricity Connection ⁴							→	1 month	Varies
Water Connection ⁵								1 week	K250,000 (US\$135)
Sewerage Connection ⁶								3 weeks	K50,000 (US\$27)
Phone Connection ⁷								8 months	K260,000 (US\$140)
Project Brief Review ⁸	→							3 weeks	K100,000 (US\$54) average
Environmental Impact Assessment Review	→							1.5 months	5% of the project budget

FOOTNOTES

- 1 Ground rents averaging K45,000 (US\$24) per hectare for industrial land have to be paid.
- 2 Typically it takes from 1 to 2 months, but may be longer due to surveying, which ranges from 6 to 9 months. Fee for registration is K6,000 (US\$3) and fee for issuance is K20,000 (US\$11).
- 3 Scrutiny Fees range from K25,000 (US\$14) to K200,000 (US\$108) per sq m. by type of building. Receipt times range from 1 to 3 months.
- 4 Connection charges depend on the location and infrastructure in place; one investor reported paying K25 million (US\$13,514).
- 5 The application fee is by Ndola Town Council for industrial usage. The duration reflects for Ndola as well.
- 6 The application fee and duration are for Ndola Town Council; one investor reported K60,000 (US\$32) for sewer connection
- 7 K150,000 (US\$81) installation fee + K100,000 (US\$54) deposit charge + K 10,000 (US\$5) two months rental.
- 8 This activity starts after the company registration is complete

Local citizens have free access to all the land in Zambia; however a person may not sell, transfer, or assign any land without the consent of the President. If consent is not granted within 45 days of filing the application, consent is deemed to have been granted.¹ If the President refuses to grant consent within 30 days, he must give reasons for the refusal. A person aggrieved with the decision of the President to refuse consent may, within 30 days of such refusal, appeal to the Lands Tribunal for redress.

There are two types of tenure in Zambia, namely leasehold and customary tenure. There is no freehold system. Leasehold tenure runs for 99 years and is renewable for a further period of 99 years. Land situated in a customary area can be converted to leasehold tenure. Standard lease forms are used for leases of 99 years for surveyed land and 14 years for non-surveyed land, during which it can be surveyed. Once the surveying is complete, the 14-year lease is converted into a 99-year lease, starting on the first day of the 14-year lease.

The zoning of land for commercial, industrial, or residential purposes, as well as open spaces and parks, is decided by the planning departments of local authorities. Zoning plans are kept with the Ministry of Lands. Agricultural land is surveyed by the Land Use Department of the Ministry of Agriculture. Land suitable for game parks and national parks is planned or demarcated by the Natural Parks and Wildlife Service of the Ministry of Tourism. An investor interested in mining must apply to the Ministry of Mines and Minerals Development for land-related issues.

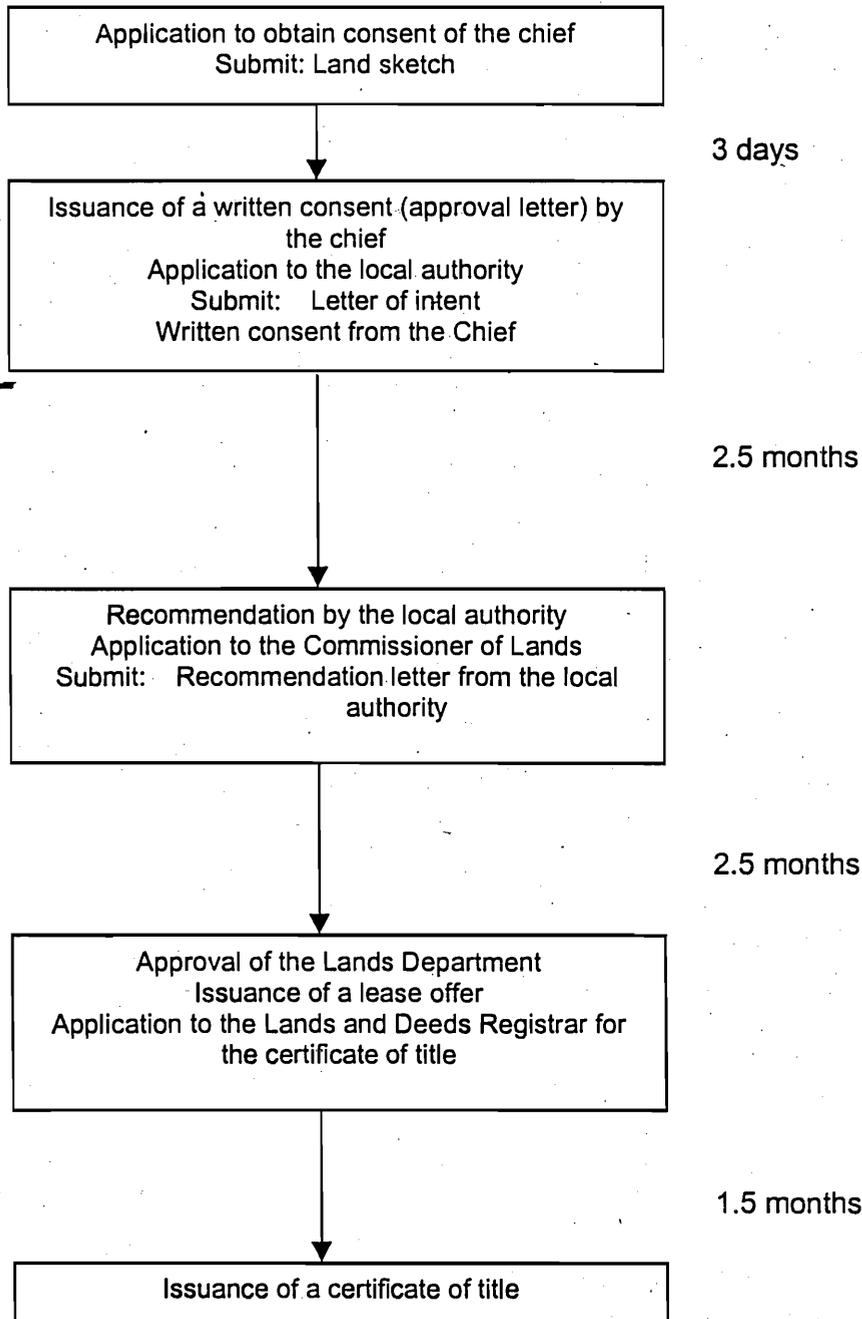
Procedures for Acquiring Land

Investors are faced with four categories of land to choose among when securing land for development in Zambia – private land, customary land, state land, and parastatal landholdings are all potentially available for development. If the investor is purchasing a piece of land that is owned by an individual, the investor must apply for a transfer of ownership or lease. If the investor is interested in a piece of land held under customary tenure, he must convert it to leasehold tenure through a lease granted by the President. The procedure for acquiring state land is the same as the procedure for acquiring customary land except there are no chiefs from whom to obtain consent, and the process starts directly with the relevant authority. The privatization process, which in terms of numbers of public companies sold is nearing its conclusion in Zambia, is governed by special legislation and procedures, and can be rather different from the usual processes for acquiring land. Often receiving a lease is part of the overall privatization tender process, and an investor will not need to follow the procedures required of investors who are starting greenfield projects. Thus, in this study, the acquisition of land from parastatal companies is excluded.

Figure 4.2 illustrates the process and time sequence for acquiring land.

¹ Private sector sources suggest that few in Zambia would exercise this option due to fears of the government not honoring this provision.

Figure 4.2: Acquisition of Land



Note: Due to processes such as demarcation, plot numbering, and surveying, this process may stretch to a total of 1 year or more.

authority and finds that another party already has title to the land in question, the investor must look for another plot.

- 12) If the Lands Department approves the local authority's recommendation for allocation, it checks the land for surveying. If the plot has not been surveyed, the Lands Department requests the land to be surveyed.
- 13) The survey can be carried out by the Surveyor-General or a private land surveyor licensed by the Surveyor-General. Typically, a survey in Zambia costs between K1 and 2 million (US\$541 to \$1,081).
- 14) In the case of land subject to provisions of the Town and Country Planning Act, (land that falls under the jurisdiction of the local authority), the procedure is slightly different. If the survey is completed by a land surveyor, he must submit a survey diagram approved by the Surveyor-General of Lands showing the boundaries of the parcel or a plan approved by the appropriate town planning authority.
- 15) After the survey is filed by the Surveyor-General, the Lands Department makes a final offer of a lease valid for 99 years with the condition that planning permission must be obtained. An offer letter, which indicates the requirements for land use and project type, is given to the investor.
- 16) A copy of the offer is sent to the Legal Department of the local authority, which in turn sends a memorandum to the departments of engineering, health, finance, and housing, indicating that the plot is formally allocated.
- 17) The investor pays the relevant administrative fees and signs the lease agreement with the Commissioner of Lands, who affixes a seal and countersigns the document.
- 18) Officially, upon receiving an application for issue of a certificate of title, the Lands and Deeds Registrar advertises the application in the *Gazette* and at least one newspaper published in Zambia or approved by the Minister of Lands, and appoints a time within which any objection to the issue of the certificate of title may be lodged with the Lands and Deeds Registrar.²
- 19) Before one receives a title, the ground rent must be paid.
- 20) After the period of gazetting, a letter is sent to the Lands and Deeds Registrar, who issues the certificate of title.
- 21) After the title is issued, an investor typically pays water and sewerage deposits.

² This procedure is generally reserved for cases where duplicate Certificates are needed.

- 22) If there are no objections, the certificate of title is issued. If there are objections, they are referred to the High Court for a decision to be carried by the Registrar.

Typically, the duration between submission of the offer letter to the Lands and Deeds Registrar and obtaining the land title ranges from one to two months, but it can be much longer if there is need for surveying. There is no established time frame for the Surveyor-General to sign off on the diagrams, and it may take from six to nine months if done by the Surveyor-General. Surveying is reported to take three to four weeks if by private surveyors. The minimum amount of time to acquire land is reported to be six to seven months, and up to two years if an investor does not regularly follow-up with various officials.

Any dispute relating to land under the Lands Act may be taken to the Lands Tribunal, which consists of members appointed by the Minister of Lands and includes a chairman (qualified to be a judge of the High Court), a deputy chairman (qualified to be a judge of the High Court), an advocate from the Attorney-General's Chambers, a registered town planner, a registered land surveyor, a registered valuation surveyor, and not more than three persons from the public and private sectors. Any person aggrieved with a direction or decision of the President, the Minister of Lands, or the Registrar of Lands may apply to the Lands Tribunal. Any person aggrieved by any award, declaration, or decision of the Tribunal may within 30 days, appeal to the Supreme Court. However, investors indicate that the Tribunal is efficient in resolution of disputes.

The annual ground rent prices are set by the Ministry of Lands under the Ministry of Finance's directions, and they are non-negotiable. The ground rent charged to investors for agricultural land located outside a 20 km radius of Lusaka, Ndola, and Kitwe is presented in Table 4.1.

Table 4.1: Ground Rents Outside 20 km Radius of Lusaka, Ndola, Kitwe

SIZE OF PLOT	GROUND RENT*
UP TO 1.0 HA	K20,000
1-100 ha	K20,000 + K250/ha
100-250 ha	K44,750 + K500/ha
Above 250 ha	K119,750 + K1,000/ha

*At the time of writing, US\$1 = 1,850 Kwacha.

The ground rent charged to investors for agricultural land located inside a 20-km radius of Lusaka, Ndola, and Kitwe, is presented in Table 4.2. is follows:

Table 4.2: Agricultural Land inside 20 km Radius of Lusaka, Ndola, Kitwe

SIZE OF PLOT	GROUND RENT*
UP TO 1.0 HA	K30,000
.1-50 ha	K30,000 + K5,000/ha
50-100 ha	K275,000 + K4,000/ha
100-250 ha	K475,000 + K2,000/ha
Above 250 ha	K775,000 + K1,500/ha

*At the time of writing, US \$1 = 1,850 Kwacha.

The ground rent payable for non-agricultural land depends on the land-use. In general commercial usage rates are higher than residential, industrial, and other usage rates. In Northern, North West, Southern, Central, Western and Eastern Provinces, the residential, commercial, industrial, and other usage rates are K15,000, K20,000, K15,000 and K15,000, respectively. Table 4.3 illustrates the rates in Copperbelt and Lusaka Provinces:

4.3: Ground Rents for Copperbelt and Lusaka Provinces

	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	OTHER
Copperbelt	K15,000 – 40,000	K40,000 – 75,000	K15,000 – 75,000	K15,000 – 30,000
Lusaka	K15,000 – 50,000	K20,000 – 100,000	K15,000 – 100,000	K15,000 – 30,000

Note: At the time of writing, US \$1 = 1,850 Kwacha.

Acquiring Land for a Lodge or Rural Tourist Enterprise

Acquiring rural land for tourism development involves certain steps not required of other investors. After the investor decides on a site on which to establish a lodge, he or she must follow these steps:

- 1) Investor gets the chief's consent, as indicated by a letter of consent
- 2) Investor applies to the local authority with a letter of consent from the chief. Investor submits a project proposal and building drawings.
- 3) After receiving the project's approval by the local authority, the investor files an application with the National Parks and Wildlife Service (NPWS) by writing a letter describing the project and the land to be leased (there are no application forms for this step). The investor also submits a project proposal, list of shareholders, and information about his or her business experience.
- 4) After approval, the NPWS issues a no-objection letter.

- 5) Investor applies to the Investment Centre to obtain an Investment certificate. To do so, an investor follows the normal procedures associated with obtaining an investment certificate.
- 6) Investor submits the drawings to the environmental council for an environmental impact assessment and to obtain approval.
- 7) Upon receipt of the investment certificate, the investor applies to the Zambia Tourist Board to obtain a tourist enterprise operating license.
- 8) Investor applies to the Lands Commissioner for a certificate of title for a 14-year lease. Later this lease can be changed to a 99-year lease.
- 9) ~~Ex~~actly 5 hectares of land (no more and no less) is given for the purpose of building a lodge if the land is under the administration of the NPWS.
- 10) After completion of the lodge construction, the investor is required to obtain authorization from the director of NPWS to operate. This authorization is issued within one to two days.
- 11) The National Hotels Board performs an inspection on the premises and informs the Permanent Secretary of the Ministry of Tourism of its approval.
- 12) Only after the approval of the National Hotels Board is the lodge is legally operational.

Any areas suitable for "consumptive tourism," including hunting areas and game management areas, are advertised by the Zambia National Tourist Board on behalf of the Ministry of Tourism, and investors bid for this advertised land. A technical committee evaluates the bids and gives a recommendation on which the Permanent Secretary of Ministry of Tourism bases his decision. Concession fees are paid to NPWS.

Existing government-owned and -managed lodges and undeveloped, unsurveyed sites are currently being advertised by the Zambia Privatisation Agency (ZPA) and bid for by interested investors. The evaluation of bids is also conducted by ZPA.

Re-zoning

Any requests for rezoning, regardless of land ownership, must be submitted to the Planning Department of the local authority. Typically, the following steps are involved:

- 1) The applicant must submit a rezoning application, a statement of motivation, and a processing fee.
- 2) The rezoning request is advertised, at a cost to the investor, for 28 days for public comment.

- 3) If an objection is expressed at a public inquiry, the Minister of Local Government must appoint an investigation panel with relevant expertise. This panel will give the minister a recommendation about the final decision.
- 4) The public can appeal any favorable decisions by the Minister of Local Government at the High Court.
- 5) If there are no objections by the public, the application for rezoning is reviewed by the local council's PWD first and then by the full council.
- 6) After approvals of both the PWD and the full council, the request is passed to the Minister of Lands who renders the final decision.
- 7) After obtaining approval for rezoning his or her land, the investor pays a fee of K11,000 to register a deed of rectification at the Lands and Deeds Registrar.

The average rezoning decision can take two to four months to finalize.

4.1.2 Analysis

Issues

Although Zambia is blessed with vast tracts of undeveloped, arable land, obtaining land is one the most significant constraints faced by new businesses in Zambia, especially in rural parts of the country and within the tourism sector. One key problem is that while the Ministry of Lands has undergone some recent reforms, the land acquisition process as a whole, which involves significant participation by local councils and chiefs, will likely remain cumbersome if significant vertical reforms are not instituted. Reports of delays in obtaining land range from three months to three years, and a few Zambians noted in interviews that they had waited five to six years without receiving a title. Following are some specific issues of concern related to acquiring land in Zambia:

- There is a general lack of coordination between the chiefs and the local authorities. Currently, chiefs nominally control about 92 percent of the land in Zambia. The local authorities do not provide the chiefs with information about planning for the region, so in some cases, chiefs grant to an investor land that is already allocated for another use.
- There is a very loose link between the local authorities and the Ministry of Lands. Typically, the Ministry of Lands encourages investors to contact local chiefs and councils before coming to them, but some investors report that successful transactions must begin with the Ministry of Lands. At the same time, the ministry has the authority to grant state land without input from local authorities, and the ministry often fails to inform the local authority of its decisions. There is some debate about whether or not the Ministry of Lands makes tentative offers of (non-state) land

to individuals without the knowledge or consent of local authorities and chief. Clearly, there is some confusion, and several investors noted instances in which the same piece of land was to be granted to different people by different authorities. Furthermore, disputes are reportedly common between chiefs and among chiefs, local councils, the Ministry of Lands, and the NPWS. Investors note that acquiring state land is generally a much shorter process than acquiring customary land.

- Surveying land can be unusually time-consuming. There is no time frame set by law for the Surveyor-General in the Ministry of Lands, and serious delays are caused by these entities. Furthermore, the Ministry of Lands admits that Zambia currently suffers from a shortage of licensed land surveyors (at the time of writing, there are seven practicing surveyors in the country) and modern equipment. As a result, the ministry is lowering its criteria for licensing surveyors and seeking funding to purchase modern Global Positioning System (GPS) equipment, which it says can increase surveying speed dramatically. The Ministry of Lands estimates that modern surveying equipment could lower the time to survey an average piece of land, currently 50 days, to 3 days.
- There is very little information available on public land holdings and planned usage. No land other than what has been applied for and urban land has been surveyed in Zambia. This lack of information about what is available in the country makes it difficult to obtain land in the rural areas.
- The involvement of local authorities is a key problem in the process of acquiring land. In general, local councils seem unwieldy, with too many overlapping yet weak committees and departments, more elected members than required to manage institutions of their size effectively, and slow response rates. Many in the private sector also characterize local councils as under-funded, prone to corruption, and highly inefficient. Some in private business suggest that they prefer local council decisions to be made by the full councils, thereby increasing the publicity of decisions and lessening opportunities for corrupt individuals to extract bribes or favors from investors. Others disagree, suggesting that better-trained technocrats at the local level, operating under clear and publicly available guidelines, should have more authority, thereby increasing the speed with which decisions are made. The fact that there are so many local council committees reviewing an application within every local authority increases delays and adds to the hardships faced by local and foreign investors in Zambia. Investors were almost unanimous in stressing that there are far too many approvals required to obtain title to land. Furthermore, in many areas the technical expertise of elected officials and some local council staff is questionable.
- Officially, infrastructure services such as water and sewerage are the responsibility of local authorities in Zambia. In practice, however, many local councils are unable or unwilling to provide such services. The Commissioner of Lands does not seem to be aware of which parcels of land are serviced and assumes that most land is

land is allocated. This communication would provide the local council with a complete record of all the land under its jurisdiction, increase responsiveness to local needs, and eliminate problems such as double land allocation.

Other agencies with control over land must communicate better with both the Ministry of Lands and the local authorities. In particular, several investors noted that the NPWS has been involved with jurisdictional conflicts with the Ministry of Lands, local councils, and local chiefs, and the NPWS's role in administering land must be clarified and harmonized with competing claims.

- Decentralization of the land surveying process and a reduction in the overall number of steps in the process would reduce delays and eliminate bureaucratic bottlenecks. Increasing the use of approved land surveyors should speed up the process. It is recommended that the Ministry of Lands quickly implement its reforms in the licensing of private surveyors and work with the Investment Centre or other appropriate agencies to attract or train qualified people to fill this gap. Acquiring GPS equipment is also recommended. This will facilitate the approval of surveying diagrams in a much faster manner, and avoid the backlogging of applications at the Surveyor-General. Additionally, the Surveyor-General should establish clear guidelines and timetables for reviewing and conducting surveys.
- It is recommended that the Ministry of Lands should consider creating a database of commercial- and industrial-zoned land to facilitate identifying and purchasing land. This database could be operated jointly by the Lands Commission and the local authorities, and could start on a pilot basis for one or two areas and eventually expand. As the land cataloguing exercise makes progress, a centralized database of government land should be made available to investment promotion specialists. A procedural guide to obtaining land should be published for investors wishing to purchase government land. If the service is of sufficient value, the Ministry of Lands should charge processing and search fees that accurately reflect associated costs and that keep up with inflation.
- A wide range of reforms is required of the local councils, but several specific recommendations would help improve the land acquisition process. Many in the private sector strongly suggest that the full council not be required to deliberate about and approve all of the many site development applications. The full council's involvement in land acquisition should be limited to considering the formulation and implementation of regional development policies, many businesspeople assert. The individual departments within the local authorities should be coordinated and time limits should be set for their review of applications and preparation of reports. PWDS should be composed of technically knowledgeable people whose assessment criteria are clear and publicly available, and their decisions should be binding. Given the master plan for development of the region and clear health, fire, and building codes, the PWD committees should be able to grant or refuse permits or access to land

based solely on technical criteria and without the redundant, and frequently ill-informed, approval of the full council.

- Local councils typically lack the capacity to provide public infrastructure services, such as waste water management and garbage collection. To address this lack of capacity, federal and local officials should continue to pursue vigorously privatization of the state-run utilities and to administer performance contracts with private service providers. Relatedly, the Ministry of Lands should be realistic in their conversations with investors about the state of access to infrastructure services in rural areas.
- The Government of Zambia should safeguard vital public interests through strengthening its legal and institutional framework. The increasing problem of land speculation can be addressed in part by introducing protective penalties into the relevant land laws and model contracts. Although existing legislation mandates a time limit within which a developer must begin construction, the threshold for what qualifies as development is too low and enforcement too weak to deter speculation. The definition of what is developed land should be changed to screen out disingenuous developers, and the time frame established should reflect the size and complexity of a project. Enforcement mechanisms should be strengthened. The Government might also consider introducing fiscal instruments, such as "best possible use" property taxes to discourage land speculation while increasing local tax revenue.
- The current system of allocating and pricing land is economically and administratively inefficient for both interested investors and executing agencies. Instituting market-oriented pricing and sales mechanisms, such as public auctions for land, can rectify this problem.

4.2 Transfer of Land

The procedures for transfer of land in Zambia do not take a considerable amount of time, but some investors suggest that it is necessary to engage a lawyer to handle these transactions. The deeds transfer process is the same whether the land is purchased from private or public sources. No land in Zambia other than what has been applied for has been surveyed, beaconed, and assigned plot numbers. Reportedly, transferring title typically takes two days to three weeks.

The role of the Lands and Deeds Registrar within the Ministry of Lands in the transfer process is three-fold:

- (1) To guarantee the identification (plot number, size, and location) of a specified plot of land
- (2) To guarantee the title deed
- (3) To maintain a registry of deed holdings

Transfer Procedures

In order to transfer a lease, the following procedure must be followed:

1. Current leaseholder has to apply to the Commissioner of Lands for status consent by filling out and submitting an application form (Form 1 under Regulation 3 (a)). The same form is used for obtaining consent to assign, sublease, mortgage, charge part with possession, sell, transfer, or subdivide any non-agricultural land.
2. The Investor pays an application fee of K60, 000 (US\$32).
3. When consent is granted, the investor then goes to the Zambia Revenue Authority and pays transfer taxes.
4. The investor pays the necessary fees at the Lands and Deeds Registrar. (See Annex B for fees)
5. If the transfer is to:
 - a. An individual, the individual's national registration card number is necessary
 - b. A foreigner, his entry permit number is required
 - c. A business, the Zambian certificate of incorporation and investment license are required. If the applicant has no investment certificate, he or she must submit a list of shareholders, at least two of whom should be Zambians; otherwise the company must be 76 percent Zambian owned to acquire land through transfer.
6. At the time of the transfer, annual ground rent for the land must have been paid so that the transaction can take place.
7. Officially, the following must be submitted to the Deeds Office for registration by the buyer:³
 - Deed of transfer (Form 6 of Lands and Deeds Registry Act)
 - Title (from the seller)
 - Other documentation depending, on the terms of sale (guarantees, resolutions, etc.)
 - Fee for preparation and issuance of a certificate of title, K20,000 (US\$11)
 - Fee for registration of a certificate of title, K6,000 (US\$3)
 - Except for residential land, an Environmental Council-approved environmental impact assessment or project brief.

³ Some businesspeople report that in practice the Deeds Office does not require a sketch plan or diagram of buildings or guarantees and resolutions.

All documents submitted to the Registrar should be accompanied by the Immovable Property Transaction Form in duplicate. When a document is presented for registration, the original and a copy should be handed to the Registrar. The original is returned to the individual, and the copy is kept by the Registrar.

The average time required for the complete transfer process—including approvals, drafting of the deed, and registration with the Deeds Office—is approximately a week to ten days.

The fees for registration of a document in the Lands Register or the Common Leasehold Register are grouped into four categories.⁴ The first category covers documents relating to state leases, assignments, transfers, subleases for the whole term except for the last specified days in the sublease, and other similar documents. The fees are illustrated in the table below:

Value of Property	Fees Payable
K2,000,000 or less	K20,000
K2,000,000 to K50,000,000	1% of the value
More than K50,000,000	K500,000

Note: At the time of writing, US\$1 = 1,850 Kwacha.

The value of property is registered with the Registrar and, in some cases, is set by the Ministry. Most land transfer transactions are determined through negotiation between the buyer and seller. The values, when set by the GRZ, are meant to reflect the value that the property would fetch if sold in the open market. The Registrar may ask an investor to submit a signed statement as evidence of such value.

All fee schedules to be charged by the Lands Register and the Common Leasehold Register are presented in Annex B of this report.

4.2.2 Analysis

Issues

The land transfer system in Zambia does not require the involvement of an agent in the process, but investors suggest hiring a lawyer for the title transfer process. The direct interaction of the investor with the Deeds' Office simplifies the procedure greatly. Once all the fees are paid and all the paperwork is submitted, the procedure gets completed smoothly.

Some in the private sector suggest that the Common Leasehold Register is rarely used and designed primarily for houses.

Recommendations

Transfer of land is a much simpler process when compared to gaining access to land. No recommendations are applicable at this time.

4.3 Site Development

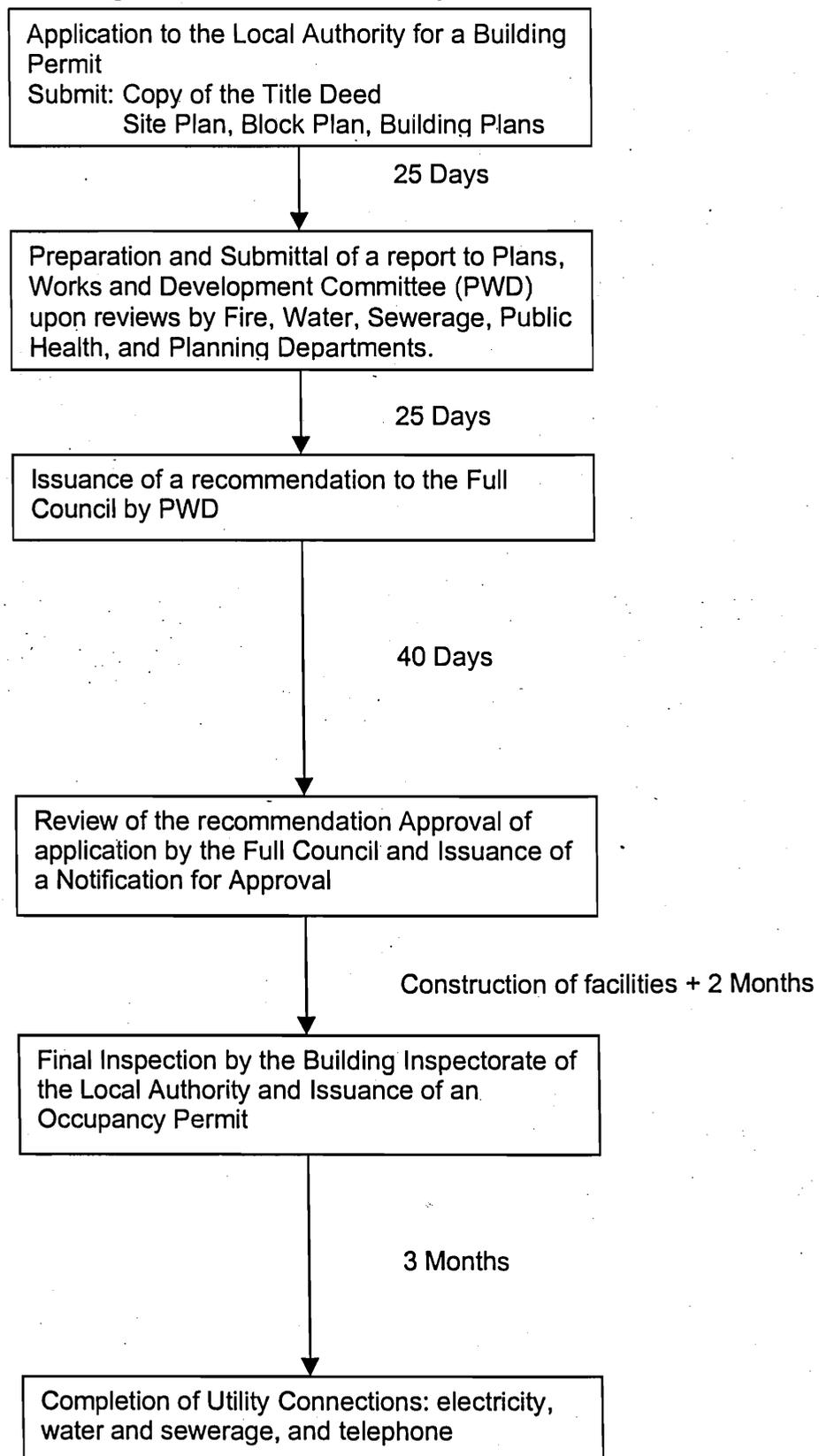
The procedures for developing a site are generally consistent throughout the country, but the specific steps an investor must take are defined by the individual local authority or regional planning office. In most cases, the approval of plans and the provision of water and sewerage are handled exclusively by the local authority.

The availability of serviced land varies from region to region, as does the capacity of utility providers to meet customer needs. In general, in areas where land is already serviced and no upgrades are required, utility hook-ups are fairly simple and swift. Where capacity upgrades or servicing is needed the investor may face a more complicated process and a long wait for connections.

Because each municipality has its own procedures and forms, a detailed listing of each step an investor must take is not possible. The general guidelines for developing a site are presented.

Figure 4.3 summarizes the steps involved in developing land in Zambia.

Figure 4.3: Site Development



Procedures for Developing/Subdividing Land

Once a plot is allocated to a prospective developer, it must be developed within two years. As noted earlier, the criteria used to define what is considered developed are not always clear, usually not particularly stringent, and vary to some extent. For example, a lessee of customary land must spend K500, 000 (US\$270) to demonstrate that a parcel of land is developed. There are two methods of subdividing land. Investors state that the preferred way to subdivide is to apply by using an "Outline Application." This process saves the investor the time needed to prepare plans and drawings and architect's fees. The investor has to fill in the application form (Form T & CP 3: Application for Permission in Principle to Develop/Subdivide Land) in duplicate and attach the following in duplicate:

- Certified copy of the title deed
- Location plan

Next, the applicant pays the plan scrutiny fee, which is a 0.25 percent of the building development costs and is calculated as follows:

(Total Area covered by the proposed development) times (Rate of Construction [i.e. Ruling bills of quantities for a particular type of building (per square meter) at a given time]) divided by 400.

This outline application is submitted to the local planning authority through the Department of City Planning. The local authority keeps a register of applications, and each application is issued a unique development number as well as a plan number. The applicant is then given a letter that the application has been officially lodged with the local authority.

The application is checked for inter-alia zoning, design, external appearance of the proposed development, materials used, accessibility, and site and offsite effects of the development.

The application is then forwarded, for consultation, to the Departments of Engineering Services (for fire considerations) and Public Health (for health concerns). Thereafter, the application is brought back to the Department of City Planning for compilation into schedules in readiness for each month's PWD meeting and eventually to the full council, which is the final level of local decision making.

By law, the local authority must make a decision on the application and send a notification of approval or refusal of planning permission within three months of the date of receipt of the application.

If the planning permission is refused or granted conditionally, and the applicant is aggrieved, he may lodge an appeal with the Town and Country Planning Tribunal for redress within 28 days of receipt of the notification by the local planning authority.

An alternative way to subdivide involves the investor applying directly, or through an agent, to the local planning authority for permission to develop or subdivide the land allocated to him or her. The investor is expected to pay service charges based on the size and location of the plot. The service charges are for provision of water, sewer facilities, roads, and drainage. Additionally, prior to applying for utility hook-ups, the subdivision must be surveyed to obtain a title deed. No diagram of any portion of a registered, unsurveyed parcel of land will be approved for development until a survey of the whole land is made and a diagram has been registered on the basis of such a survey.

To obtain approval for a subdivisional survey, the land surveyor must deliver one of the following:

- Plan showing the proposed subdivision approved by the local authority's planning department
- Plan of the proposed subdivision approved by the Commissioner of Lands, if the land is leased from the President.

After the survey is complete, the investor must submit in duplicate:

1. A Certified Copy of the Title Deed
2. The following plans:
 - a. Site Plan: showing the plot in question in the context of the surrounding plots and access roads leading to it at scale.
 - b. Block Plan: siting of the structure within the plot
 - c. Building Plans: showing the plan of each floor; elevation of all the sides of the building; the levels of the land and the ground floor in relation to the level of any adjoining or adjacent road
 - d. Subdivision Plan: (other than estate layout plan) to a scale appropriate to the area of the land showing:
 - i. Boundaries of the land, number and area of any existing or proposed subdivisions, and existing and proposed use thereof
 - ii. Position of any existing or proposed building on the land and of any roads, carriageways, service lanes, or roads, or any footpaths adjacent to the land
 - iii. Position, width, and gradient of all existing and proposed means of access from the land to any road
 - e. Estate layout plan as for the subdivision plan, with the following additional information:
 - i. Line of any water courses, dams, water mains, drains/sewers, underground or overhead cables on the land

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- ii. Proposed layout of the roads within the estate, including all drains, culverts and storm water drainage
- iii. Proposed water reticulation, sewerage and electricity systems showing the source and method of serving the individual stands
- iv. Surface contours at the metre (or ten-foot) intervals
- v. Reservation of public utility services and other public purposes

And fill in the application forms:

1. Form T & CP 1 – Application for Permission to Develop
2. Form T & CP 2 – Application for Permission to Subdivide Land. (A subdivision application should only be accompanied by a location plan and block plan in addition to a certified copy of title deed and eight prints of the proposed subdivision)
3. Form 1 (Public Health (Building) Regulations No. 5) in duplicate

The Ministry of Lands has final say in approving a subdivision.

The Table below show the following the current figures for scrutiny of plans used by the Lusaka City Council.

Types of Building	Conventional Areas	Peri-Urban Areas
Bars, shops, offices, restaurants, guest houses, clinics, hotels	K 200,000 / sq. m.	K150, 000 / sq. m.
Dwelling houses	K175, 000 / sq. m.	K120, 000 / sq. m.
Churches	K150, 000 / sq. m.	K100, 000 / sq. m.
Boundary walls	K50, 000 / sq. m.	K50, 000 / sq. m.
Application in principle, subdivision and consolidations	K 75,000	K75,000
Tracing of plans and supply or related information	K 25,000	K25,000

Note: At the time of writing, US\$1 = 1,850 Kwacha.

Building Permits

Building permits are issued by the local authority with jurisdiction over the particular site. Each authority has its own application process. Most applications must meet both the bylaws of the authority and the national codes set out in the Town and Country Development Act. The local public health department, local fire department, and local planning department are also consulted.

To construct any facility on a piece of undeveloped land, the investor is required to obtain a building permit. Once the building plans are approved, the local authority conducts a minimum of six inspections of the building site to ensure that the builder

follows the plans. Other inspections may be carried out from time to time, depending upon the specifics of the building.

Application Process

1. The investor must fill in an application form and attach the following:
 - a. Copy of the title
 - b. Site plan issued by the Survey Department of the Lands Commissioner
 - c. A block plan that shows the infrastructure
 - d. Copies of the building plans (electrical, mechanical, structural, etc.). The drawings should be prepared by an architect or draftsman registered by the Zambia Institute of Architects.
2. The investor must pay all scrutiny fees (scrutiny fee = 1/400 of the total value of the project).
3. The building plans are reviewed by the fire, water, sewerage, public health, and planning departments for compliance with codes, and a report is prepared by the department of planning and submitted to PWD.
4. PWD reviews the application and gives a recommendation to the full council.
5. Full council convenes and reviews the application. If the full council approves the application, the applicant is issued a Notification for Approval.

It takes about 90 days from the application day to receive the result. If the application is refused, by law an applicant has to wait for six months before his or her project can be submitted for re-evaluation.

Occupancy Permit

During the construction of the building, the building inspectorate under the department of city planning carries on inspections at each of the six stages defined as:

1. Trenches
2. Foundations
3. Damp and ant courses
4. Drainage
5. Completion up to wall plate level
6. Completion and final inspection for Issuance of an occupancy certificate

The total fee charged by Lusaka City Council for all stage inspections is currently at K25,000 (US\$14). This fee is charged at the application stage for development. The developer must inform building inspectors when the structure has reached any one of these six stages that the area is ready for inspection.

The final inspection requires that all utility connections be completed. After the fire department of the Directorate of Engineering Services and the Department of Public

Health complete their inspections, the occupation certificate is issued by the Director of Engineering Services. It reportedly takes a month to obtain the occupancy permit.

Infrastructure

Electricity Hook-up

The power network in Zambia, currently servicing only 18 percent of the population, was initially established to serve the copper mines of the Copperbelt Region. The Zambia Electric Supply Company, Ltd.-owned (ZESCO) hydropower stations, which generate 99 percent of the country's power supply, are located at three locations to the south of the country:

- Kariba North Bank (600 mw)
- Kafue Gorge Station (900 mw)
- Victoria Falls Station (108 mw)

There are a few diesel generator sets in the Northeastern, Eastern, and Western Provinces.

The procedure to obtain a new power line connection is as follows:

1. The investor fills in the application form and attaches the site sketch, building plans and, maximum voltage requirement, and specifies if the project requires any phased development or not.
2. ZESCO visits the site, assesses the application, and completes the cost estimation. Site assessment by ZESCO takes from one to two weeks.

Investors interviewed said that it typically took one to two months to complete the process of applying for and receiving a power connection. When connecting a new line, half the capital cost is paid for by the investor and the remaining 50 percent is paid by ZESCO. If there are several investors who may use a new power line, they can split the 50 percent among themselves. ZESCO charges residential customers K8,000 (US\$4) for an electricity deposit, and industrial customers are charged based on the declared demand.

The table below illustrates tariff for electricity effective March 1998, and exclusive of VAT and 10 percent excise duty. The Energy Regulation Board has the mandate to approve all electricity and fuel tariff rate changes.

Metered Residential Tariffs	
Up to 50 kWh	K23/kWh
50–700 kWh	K46/kWh
Above 700 kWh	K65/kWh
Unmetered Residential Tariffs	
Up to 2 amps (for lighting only)	K4,200
Above 2 amps	K15,200
Commercial Tariff – 15 kVA	
Up to 1,000 kWh	K61/kWh
Above 1,000 kWh	K82/kWh
Industrial Maximum Demand Tariffs	
Capacity Up to 300 kVA	
Maximum demand charge	K6,122/kVA/Month
Energy charge	K49/kWh
Capacity between 300 and 2,000 kVA	
Maximum demand charge	K7,483/kVA/Month
Energy charge	K43/kWh
Capacity Between 2,000 and 7,500 kVA	
Maximum demand charge	K11,283/kVA/Month
Energy charge	K30/kWh
Capacity Above 7,500 kVA	
Maximum demand charge	K11,661/kVA/Month
Energy charge	K23/kWh
Social Services Tariffs	
Water pumping and sewerage treatment plants	K59/kWh
Schools, hospitals, churches, and orphanages	K59/kWh
Street lighting	K43/ kWh

Note: At the time of writing, US\$1 = 1,850 Kwacha.

Water Hook-up

Supply of water is the responsibility of local authorities in Zambia. The Department of Rural Affairs looks after the rural areas outside jurisdiction of local authorities. The Water and Sanitation Act of 1997 set targets to attract private investment in the supply and distribution of water and sewer services. Through Section 9, it allows the local authorities to establish a public or private company, or a joint venture with an individual, private company, public company, or one or more other local authorities. There is a requirement that the majority shares of a joint venture company shall be held by the local

authority. Also, a utility provider must be licensed by the National Water Supply and Sanitation Council.

The Lusaka Water and Sewerage Company (LWSC) is 100 percent owned by the local authority, in this case Lusaka City Council, but it is designed as a private company. The company supplies water to Lusaka city through two sources:

- Ground water (100,000 cu. m/day capacity)
- Surface water (100,000 cu. m/day capacity)

The population of Lusaka is about 2 million, and the current water supply capacity cannot meet the demand. Approximately two thirds of the facilities consuming water are not metered due to the problem of financing meter purchase and installment. For that reason, LWSC takes an average of the regional consumption and charges its customers on that basis. One businessman reported paying a flat monthly fee of K21,000 (US\$11) for his home supply of water. Today, it is estimated that only 40 percent of what should be collected is collected in Lusaka. LWSC is also responsible for collection and transport of sewerage to waste treatment facilities. While approximately 80 percent of Lusaka City is serviced by water, only 33 percent of the city is serviced by sewer facilities; the rest is utilizing septic tanks, soakaways, pits, pit latrines, or nothing at all.

When requested to provide water for construction of any project, LWSC supplies a meter use inside the land boundary. The investors are given priority by LWSC in supplying connections.

The procedure to obtain a new water connection is as follows:

- 1) Fill in the application form and give this information to the Distribution section of the company, which, in turn, routes it to LWSC engineers.
- 2) Within two days, LWSC engineers perform a field inspection to determine whether or not the requested service can be supplied. According to LWSC officials, rendering this decision takes approximately five days. Also, the charge for the connection is estimated within three to five days.
- 3) After the assessment has been made, the application form is sent to the commercial department of the company and a deposit is paid. In Lusaka, the domestic use deposit is K60,000 (US\$32) and for commercial connections the deposit is K300,000 (US\$162). In addition, all new connections are assessed a "tapping fee" of K2,000 (US\$1). An advance payment is preferred by LWSC.

At Ndola, for example, the standard charge for water connection is K80,000 (US\$43) for residential usage, K150,000 (US\$81) for commercial usage, and K250,000 (US\$135) for industrial usage. It takes from two to seven days to complete the connection. For sewerage, Ndola Town Council uses a separate application form, and the application fee for sewerage is K50,000 (US\$27). In Lusaka all connections are charged at cost, and the monthly water charges are as follows. See table below:

Commercial And Industrial Consumers	
Standing charge (for metered supplies)	K10,000
0–100,000 litres	K590 / 1,000 litres
100,001–170,000 litres	K1,100 / 1,000 litres
170,001 litres and over	K1,500 / 1,000 litres
High Density Residences with Communal Taps	
Upgraded areas	K11,000
High Density Residences with Individual Taps	
Per house/month	K12,000
Low Density, Council Residences and Special Connections	
Standing charge (for metered supplies)	K4,000
0–6,000 litres	K210 / 1,000 litres
6,001–66,000 litres	K420 / 1,000 litres
66,001–100,000 litres	K590 / 1,000 litres
100,001–170,000 litres	K1,100 / 1,000 litres
170,001 litres and Over	K1,500 / 1,000 litres

Note: At the time of writing, US\$1 = 1,850 Kwacha.

In addition to the connection fee, the city of Ndola requires investors to pay a deposit on water to be consumed during construction. This monthly fee is K500 (US\$0.27) for every K100,000 (US\$54) in estimated development value, subject to a minimum of K2,000 (US\$1) and a maximum of K250,000 (US\$235).

Water Deposits are charged in Lusaka as presented in table below:

Industrial, commercial, and special connection	K300,000
Low-and medium-density residences	K50,000
High-density residences with individual taps	K20,000
High-density residences with communal taps	K20,000

Note: At the time of writing, US\$1 = 1,850 Kwacha.

All sewerage connections are charged out at cost in Lusaka; the monthly sewerage tariff is presented in the table below:

Domestic Sewerage Tariff	
0–6,000 litres	K168 / 1,000 litres
6,001–66,000 Litres	K 336 / 1,000 litres
66,001–100,000 litres	K472 / 1,000 litres
100,001–170,000 litres	K 880 / 1,000 litres
170,001 litres and over	K1,200 / 1,000 litres
Premises Discharging Trade Effluent	
Tariff C up to 1,000 parts per million biochemical oxygen demand (B.O.D.)	K1,000
Tariff D 1,001–2,000 parts per million B.O.D.	K1,600
Tariff E 1,001–2,000 parts per million B.O.D.	K2,200
Sewerage Discharge by Vacuum Tankers	
Per 100 litres	K3,300

Note: At the time of writing, US\$1 = 1,850 Kwacha.

Illegal Water and Sewer Connection Charges	
Commercial and industrial areas	K300,000
Residential areas	K50,000

Note: At the time of writing, US \$1 = 1,850 Kwacha.

According to some in the private sector, in actuality most residents of Lusaka do not rely on public sewerage services and instead use their own septic tanks.

Telephone Hook-Up. Almost all towns in Zambia have phone service. While the current switch system is 60 percent digital and 40 percent analog, the transmission is mostly analog. There are also digital satellite links to Europe and the United States. Mobile phone services are available through TELECEL or the state-owned Zambia Telecommunications Company Limited (ZAMTEL). Internet access is available through ZAMTEL ZAMNET.

The Multi Access Radiotelephone System services primarily the farming community in Zambia. The tower is the main base station from which signals are transmitted and received to and from Lusaka's Lamya House.

The government's plans to privatize ZAMTEL are underway, but currently there are no set dates for when the company will be up for offer. The ZAMTEL network is divided into three regions: Northern Region, Lusaka Region, and Southern Region. There are no other revenue sources for ZAMTEL besides the services being sold.

If an investor desires to set up his own telecommunications system, ZAMTEL does not get involved. However, ZAMTEL will help with the installation and technical issues such as what equipment to buy.

The following is the application procedure for a new phone line:

1. An application form must be completed. A passport number or ID number is required from individuals, and a Zambian certificate of incorporation is required from businesses.
2. The investor provides a site sketch attached to the application form.
3. The technical department of ZAMTEL visits the site and assess the site conditions to see if a connection is possible. This takes from one day to two weeks, depending on the number of applications received.
4. If a connection is possible, a written inquiry form is given to the investor.
5. The investor pays the installation deposit and two month's rental in advance. The investor and two witnesses sign the contract agreement.
6. ZAMTEL installs the phone and establishes an account for the customer to whom monthly bills will be sent.

Interviewed investors report that connecting a new phone line takes from three to eighteen months.

Telephone call charges are based on time and distance in the form of metered units. The system allows more time per unit for local calls and progressively less time per unit for trunk calls, according to the distance covered. The current charge per unit is K84 (US \$.05), a recent 30 percent decrease from K120 (US\$0.07). Each metered unit for local calls is three minutes. A two-tier tariff for peak (standard) and off-peak (reduced rate) hours is in operation for both national and international calls. Standard rates apply Monday through Friday from 7 am to 6 pm, and reduced rates apply at other times, where available.⁵ During off-peak hours, local and national calls are 50 percent off the standard rate, and international calls are 75 percent off the standard rate. International calls to some countries are listed in the table below:

COUNTRY	(US\$/MINUTE)
Angola, Botswana, Kenya, Malawi, Mozambique, Tanzania, Zimbabwe	1.75
Australia, Canada, France, Germany, Japan, UK, USA	2.24
Austria	2.45
Brazil, Lebanon	2.94
People's Republic of the Congo	2.10

At certain locations cheap rates are not available due to the conditions of the telephone infrastructure

Telecommunication services and tariffs as of September 1997 are listed in the table below:

Type of Service	Installation		Deposit		Monthly Rental	
	Business	Residential	Business	Residential	Business	Residential
Telephone	K150,000	K75,000	K100,000	K30,000	K5,000	K5,000
Cellular	K30,000	K30,000	K300,000	K300,000	K40,000	K40,000
E-mail only	US\$40				US\$18	
Dial-Up only	US\$25				US\$20	

Note: At the time of writing, US \$1 = 1,850 Kwacha.

Postal Services Postal services are provided by Zambia Postal Services Corporation through some 150 post offices. The corporation provides straight road delivery service to an area within the 5 km radius of its post office branches. There are private boxes, which an investor can access anytime, in the post office buildings. There is also private bag service, whereby an individual can fill a whole bag with outgoing mail. The bag may be dropped off at the main post office or picked up to be sorted out later at the post office. Incoming mail is placed inside the bag and can be delivered or picked up by the investor.

Zambia Postal Services Corporation offers services of two different categories. The first category of services includes:

- Letter post Includes delivery of postal matters, including letters, postcards, newspapers and magazines, small packets, literature for the blind, and parcels.
- Poste restante. Unestablished or unsettled institutions/individuals who do not have permanent residences or boxes can send or receive mail under the care of postmaster.
- Counter services. Sale of stamps and stationery, postal orders, telegraphic money orders, telephone tokens, international reply coupons, international business reply service, international money orders, delivery and acceptance of registers and parcels.
- Box and private bag service. Offered at the rate of K144,000, or US\$78, per year.
- Box renter/household circulars. Institutions or individuals can advertise their products or services through circulars or letters sorted in all boxes and private bags at any desired post office. A minimum of 100 circulars or letters are accepted.
- Expedited mail service. Mail is delivered door-to-door domestically or internationally.
- Facsimile service. The public can send or receive fax messages through various post office numbers
- Parcel post
- Haulage
- Telegraphic services

- Postbus services. Bus services to public.
- Publications. Sale of newspapers and magazines.
- Philatelic services

The second category of services includes agency services:

- Government pensions. ZAMPOST pays pensioners on behalf of the Zambia Pensions Board.
- National Savings and Credit Bank. Conducts banking services on behalf of NSCB
- Motor vehicle licenses Licenses motor vehicles on behalf of the Road Traffic Commission.
- State lotteries. Runs lotteries on behalf of Government State Lotteries.
- Premier Sport Lotteries. Sells of Premier Sport Cards.

To apply for private box service provided by ZAMPOST, investors only have to fill in the application form. There are no additional documents requested and no application fees involved. An initial rent of K144,000 (US\$78) for the first year (same for both post office boxes and postal bags) is submitted at the time of application. In addition, customers pay a refundable deposit of K18,000 (US\$10) for the two keys they receive.

4.3.2 Analysis

4.3.2.1 Issues

- Despite recent improvements, the existing site development process is still flawed, as evidenced by the multiplicity of steps and approvals required. The three-month delay in granting building permits compares unfavorably to regional standards, including in Namibia, where permits are routinely granted in two to three weeks. An interviewee reported that he obtained his building permit two years after the building was complete, and it took him five years to obtain the occupancy permit. Other investors noted that moving ahead on a project prior to receiving formal approval can be risky and open oneself up to corrupt officials. Clearly, there is a need for improvement at the local level.
- The need to obtain both a "permission to develop" and a "building permit" is confusing for investors and perceived to be duplicative. It seems that local authorities require developers to obtain the permission to develop or subdivide to satisfy the requirements of the Town and Country Planning Act, and they require developers to obtain a building permit to satisfy the bylaws of the local council. The application forms and attachments for the permission to develop and building permit are almost identical.
- The Town and Country Planning Act and the Public Health Building (Regulations) Act have contradicting provisions. The Public Health Building (Regulations) states that if the local authority fails to respond to receipt of an application for a building permit within 30 days, the person submitting the plans may proceed with such building or

work in accordance with the plans. A similar provision in the Town and Country Planning Act gives a time period of 90 days.

- There is another contradiction between the Tourism Act and the Town and Country Planning Act. The Tourism Act states that applicants for land plots for tourism related developments must obtain an authorization permit from the Zambia National Tourist Board before seeking planning permission from the relevant Planning Authority. At the same time, the Town and Country Planning Act requires that an applicant obtain the planning permission before the permission for development.
- Investors, who spend considerable time and money to comply with Zambia's land development regulations, are frustrated by illegal squatters who have invaded prime land slated for industrial, commercial, and agricultural use. There are contradicting statements in the Town and Country Planning Act and the Lands Act in regard to eviction of illegal occupants, and neither affords sufficient legal basis for an investor to protect his or her land in a timely fashion. The Town and Country Planning Act states that an enforcement notice may not be served for more than four years in case of breach of development without planning permission, while the Lands Act allows, for a period of twelve years, immunity of eviction of illegal occupation of land. Given the legal and political problems with evicting illegal occupants, one investor noted that it would be extremely foolish to purchase land peopled by squatters.
- Getting access to quality infrastructure services remains a problem in Zambia. In Zambia, local authorities are expected to supply greatly needed infrastructure in areas under their jurisdiction. However, in addition to problems with their internal management structures, local authorities are facing serious funding problems, having lost many of their previous income sources. Investors feel that local councils are generally overstaffed, under-funded, and lack enough qualified personnel. Ndola Town Council, for example, has only 10 inspectors to perform building inspections in their jurisdiction, and it is estimated that around 60 percent to 70 percent of the Ndola Town Council's income has reportedly been lost due to recent sales of council-owned housing. Currently, ground rents compose about 80 percent of the Ndola Council's income. Reportedly, the Lusaka City Council's budget can cover only salaries, and in August 1998, the council committed several billion Kwacha for severance packages for 1,300 workers, almost half of its staff, slated for retrenchment. Employees of the Livingstone City Council, among others in Zambia, have reportedly gone on strike several times over failure to receive wages. One consequence of the lack of funding, overstaffing, and inefficiency is that investors are compelled to pay for the transportation of building inspectors when they inspect a site.
- Often local authorities expect developers to build the necessary infrastructure to access public services, and at the same time developers expect access to come from the utility companies and local councils. Only general incentives apply to private-sector companies involved in infrastructure services, and there are no special

incentives to attract private investors. Also, serviced, zoned industrial land is in particularly short supply and continues to be a constraint in Zambia.

- The process of inspecting construction is time consuming and can be expensive for investors. Currently, local council inspectors are to be notified when a project reaches six different phases of completion so that the investor can arrange for their site to be inspected. Each time, the investor is liable for the costs associated with the inspection. Some in the private sector suggest that such assets as cars are often misused by senior people in a public agency, leaving lower-level staff with legitimate transportation needs to find alternative means of transport. Ultimately, the private sector must pay for the government's misuse or lack of material resources.
- Interviews with utility providers in Zambia indicate that vandalism and illegal connections are among the biggest problems they face.
- Currently, the main problem related to electricity is slow and expensive installation procedures. The multi-week delay in getting power commonly experienced by new companies is a function of the location of the company and the closeness of the site to an existing power line. ZESCO's hook-up times compare poorly to the two-week delays in Namibia, for example, and add to the cost of doing business in Zambia. In addition, the requirement that investors pay 50 percent of the installation costs up front imposes a significant working capital cost on firms when they can least afford it.
- The business community suggests that problems with reliability of the power supply have decreased significantly in recent years, and ZESCO's response times for failures have improved considerably. Although many investors report that ZESCO has improved greatly in the last few years, reports suggest that there is a lack of communication between the accounting and engineering divisions of ZESCO.
- The generation and distribution of electricity by ZESCO is rumored to be slated for privatization. For that reason, ZESCO is undergoing restructuring, and the commercialization of some of its divisions is currently taking place.
- Water and sewerage services are, on the whole, inadequate in Zambia and do not meet residential or commercial needs in many parts of the country. Several local councils are trying to supply and distribute water and sewer services, either through a management contract (5 years on the average) or a concession contract (usually more than 20 years) signed by a private company. There are three pending bids in the Copperbelt Region to establish commercial utility companies – one in Southern Province, and one in Northwestern Province. This is a good sign for development of the water sector but still not enough for the whole country.
- Phone service reliability, though improving, is still poor by international standards, particularly within certain regions and neighborhoods. Poor service levels are also evidenced by the large number of complaints about ZAMTEL, including that they

routinely fall three months behind in billing; charge customers high, inaccurate estimates for phone service; and have "nonexistent" customer service.

- The introduction of cellular phone service represents a quantum improvement in Zambian phone service. It has improved communication reliability and given consumers an alternative to the state-run system and its long installation delays. Nevertheless, there are still several problems facing Zambia's telecommunications industry. At US\$300-\$500 per unit, the cost of cellular phones remains outside the reach of most small businesses. This means that businesses continue to face long delays in obtaining regular phone service from ZAMTEL. The current delays in service installation are excessive by any standard and compare unfavorably to the 15-day wait in Namibia. Furthermore, Zambia's cell phones are analog and are therefore likely to be more quickly outmoded than digital models.
- Most of ZAMPOST's services are not well regarded by both public officials and business people. Immigration officials suggest that it routinely takes two months for mail to be delivered within Lusaka, and one investor noted that few in the private sector use any of ZAMPOST's services, save private bag service and expedited mail service.
- Investors involved in manufacturing activities mentioned the need for rapid start-up. The installations of power, telephone, water, and other services are perceived as by the investors burdensome procedures that take too long. Nonexistence of ready-built factory space is limits the attractiveness of Zambia as an investment destination. Some investors report that due to the poor quality of infrastructure systems and services, it is difficult to comply with Zambia's environmental laws, some of which are up to western standards. An executive of a meat processing company, for example, mentioned that the wastewater system could not handle the waste produced in order for the company to comply with environmental laws.

4.3.2.2 Recommendations

- Several steps can be taken to simplify and shorten the process of legally constructing buildings in Zambia. Instead of plans being evaluated by the PWD and the full council after each of the departments, as coordinated by the engineer's office, final approval of the full council should be eliminated. This will not only reduce the time in which approvals are granted, but also eliminate the problem of plans being evaluated by people who lack the expertise to render an informed judgment. To further streamline the process, it is recommended that council approvals be restricted to large and complex projects that potentially have a major impact on the community. Otherwise, applications can be approved easily and quickly by civil servants. It is also recommended that there be increased coordination between the various departments within the councils to accelerate approvals. Blank application forms, which are currently not easily obtainable, should be produced in sufficient quantities as to facilitate the needs of developers. A target of approving building

permit applications within two weeks should be established. Finally, it is recommended that local authorities provide clear guidelines to applicants at the start of the building process to prevent the frustration and confusions that applicants often encounter.

- Local authorities should combine the permission to develop and the building permit into one process, since both require almost identical supporting documents. There should be a single application form, review process, and, as a result, permit issued under a new name, such as "Permission to Develop and Build," which will satisfy the requirements of both the local authorities and the Town and Country Planning Act.
- The Town and Country Planning Act and the Public Health Building (Regulations) Act must be harmonized to adhere to the shorter time interval for responding to a building permit application.
- The Tourism Act and the Town and Country Planning Act must be harmonized, because they state different priorities for obtaining permits from the Planning Authority and Zambia National Tourist Board.
- The Town and Country Planning Act and the Lands Act should be harmonized, because they state different time periods allowed for eviction of illegal occupation of land. Furthermore, the state should increase the ability of landowners to evict squatters from land that is legally leased and developed. The state should educate small farmers and others about their right to lease land and encourage small holders to register legally. Formalizing the land lease market should discourage squatting and pave the way for fair and effective enforcement of property rights against illegal occupants.
- Local councils should establish clear and binding procedures and time limits to help local agencies discipline their operations and be more responsive to the needs of the public. Transparent operational guidelines that are adhered to also make the public-private interaction more predictable, which lowers the risks associated with investment. Additionally, the GRZ should examine appropriate revenue generation mechanisms, such as increased licensing fees and market-based ground rents, for local councils, while eliminating some of their regulatory authority.
- Given the fact that Zambia's local councils are generally unable to provide adequate public services, alternative mechanisms need to be developed. Systems that include private participation in the provision of public services and market-based user fees should be explored to develop the country further.
- The GRZ should eliminate the notice of inspection mechanism. Local inspection staff should pay unscheduled, routine visits to monitor and inspect the construction at various stages. This will serve the purpose of ensuring that construction is being conducted within the building codes and as shown on the approved plans, while

eliminating the unnecessary costs and waiting times involved in the current system, which requires six separate inspections. The GRZ should also cease compelling investors to incur the expenses of an inspector coming to check their facility. If lack of resources is truly the reason why the private sector is made to underwrite the costs of inspections, then the government must develop fee schedules that cover their costs and coordinate inspections with other public agencies as much as possible.

- Experience in other countries has demonstrated that utility services improve with greater private-sector involvement. There are numerous potential alternatives including outright privatization, private management contracts, use of build-operate-transfer or build-own-operate mechanisms, and/or the creation of public utility commissions to serve as public watchdogs.. The government of Zambia should investigate these options to improve service levels and reduce the high cost and inefficiency of infrastructure services. New capital flows and private management will likely improve the overall quality of service, lower costs, and reduce illegal connections and vandalism.
- On the issue of installation charges and delays for power, several power companies around the world encourage power consumption by reducing or even eliminating installation charges. ZESCO should consider instituting standard options that allow firms to defer some installation costs (with interest or higher tariff rates). Furthermore, if ZESCO were privatized, it would generate enough capital to modernize and improve installation times.
- The GRZ should speed up process of privatization in infrastructure, including water and waste water. In the medium to long run, the problem of general utility shortage can best be alleviated through privatizing many more public utility authorities and encouraging new private investment in all areas of infrastructure. Managing private entry to infrastructure is a complex, politically charged process. Differing from many other private investments, private infrastructure projects would have the government more intimately involved, as a regulator, buyer, and/or supplier. To succeed in privatization, the Zambian government, like other governments, will need to speed up the process of establishing the necessary legal and institutional frameworks, to allow orderly, transparent, and competitive transactions. Also, it is recommended that the GRZ establish infrastructure sector-specific incentives to attract the private sector to provide the services needed.
- Participation of private companies in telecommunications services has been proven worldwide to be an effective alternative to reduce costs and improve service levels. It is recommended that the GRZ consider increasing private sector involvement in the telecommunications sector. Lastly, it is recommended that for the near term, ZAMTEL be closely involved in the development of the recommended industrial estate.

- As with other public services, ZAMPOST must improve service levels. Privatizing some of its functions, or allowing competition with some of its services, should improve performance. At the same time, management needs to introduce and enforce effective performance standards for the organization.
- International experience has found that one of the most important promotional tools is the availability of standard factory buildings readily accessible for investors who require rapid start-up. It is important that the site development process be streamlined for investors through the establishment of industrial estates. Many countries have dealt with difficult land problems by encouraging the development of industrial estates. Regionally, Kenya has had success with privately developed estates. Ghana and Namibia, meanwhile, are both pursuing a joint public/private sector approach to industrial estate development.

Promoting more industrial estates and pilot projects with private-sector participation is an appealing approach because it is likely to have an immediate impact on alleviating the infrastructure bottlenecks for manufacturing investors. Under this option, the developer receives blanket construction permits for standard factory buildings, which they can then construct on an as-needed basis without forcing investors to go through all the paperwork normally associated with planning permissions and building permits. Estate developers also solicit the installation of power, telephone, water, and other services for groups of tenants in advance, or in some cases provide such services themselves. This allows interested investors to simply arrive and negotiate most required site-development services and procedures directly with the developer, simplifying the process and facilitating economies of scale. Private participation in estate development can relieve the financial and managerial constraints faced by the government. It can also encourage competition and general efficiency.

4.4. Environmental Compliance

Environmental regulation in Zambia is outlined in the 1990 Environmental Protection and Pollution Control Act. Environmental policy in Zambia is implemented by the Environmental Council of Zambia, an independent agency composed of technical staff as well as representatives from numerous government ministries and private sector groups. The council was established in 1991. The 1997 Environmental Impact Assessment Act gives the council new authority to regulate and inspect proposed and operating businesses.

All new projects in Zambia, including renovations and expansions of existing facilities, require a project brief stating the nature of the project and assessing its potential environmental impact, whether positive or negative. These project briefs are generally conducted by local or international consultants; the council has a list of consultants that it can recommend to investors. Briefs are typically reviewed and decided upon within two to four weeks. The council's response to a brief comes in a decision letter that approves, rejects, or seeks changes in a project design. Reviewing a brief costs K100,000 (US\$54).

For most simple or small-scale endeavors, only a project brief is required, but more complex and large-scale undertakings frequently require that an environmental impact statement (EIS) be completed. The Zambia Investment Centre has prepared a guide to which projects are likely to require a full EIS. This guide can be found in Annex B of this report. These assessments are also conducted by independent consultants, and the council charges 5 percent of the total project budget in fees for reviewing the EIS. In most cases, the council responds to an EIS within 45 working days.

The Environmental Council has the responsibility to inspect businesses to assess compliance with their EIS or project brief and Zambian environmental law. Council officials state that they do not tend to conduct on site inspections in the first year. Rather, they rely on businesses to produce a self-audit report that is reviewed by the council staff. If the self-audit seems incomplete, disingenuous, or highlights a serious lack of compliance, the council may opt to inspect a business in person. At least once in the first three years of operation, the council conducts an on site inspection.

The council addresses various types of pollution with a series of licenses and fees that are graduated to cost heavier polluters more. Acquiring these licenses requires several steps:

1. Filing a detailed application form in which all relevant technical information is verified. There are several versions of the application forms designed for different types of projects. For example, Form AP5 is designed to regulate emissions from the extension of an existing plant, while Form AP6 is tailored toward new sources of emissions.
2. Paying a fee, the amount of which varies based on the type of license being sought
3. Receiving a receipt
4. Waiting for council staff to conduct a technical and legal review of the application and project (may or may not involve a site inspection)
5. Gazetting the proposed license at least 28 days prior to the date the license is to be issued
6. Considering any objections, after which the council generally issues a license within three months

In most cases, investors should file their applications six months prior to commencing operations. The council's licenses are valid for a period ranging from 6 to 36 months, depending on the severity of the pollution involved and the variability of the enterprise's emissions.

The Environmental Council's licenses are presented in the table below:

License	Fee Range
Air Pollutants Emission - Four Classes	K101,880-K4,500,000 (US \$55-2,432)
Pesticides & Toxic Substances	K525,000 (US \$284)
Waste Disposal	K50,000 (US \$27)
Waste Transportation	K20,000 (US \$11)
Effluent Discharge in Water	K100,000 (US \$54)
Withdrawal of Water to Treat Effluent	K100,000 (US \$54)

4.4.1 Analysis

4.4.1 Issues

Several investors rate the Environmental Council among the best Zambian government agencies in terms of professionalism, responsiveness, and transparency. At the same time, many suggest that it is still a relatively new player on the Zambian stage and has not yet proven itself.

- Some investors suggest that the council enforces environmental regulations far too selectively. Some businesspeople have said that large, state-owned companies, especially those in the mining sector, seem to operate under totally different rules than private investors, and some assert that new companies are made to comply with environmental laws more rigorously than older companies.
- Many investors find complying with Zambia's environmental laws, which are occasionally as strict as those in developed countries, almost impossible. Shortages in skilled labor; a lack of quality waste, water, and power infrastructure services; limited modern technology; poor transportation infrastructure; and a dearth of loanable funds for technological and capital improvements raise the cost of doing business in Zambia and also lower efficiency. Given these disadvantages, some companies find it impossible to operate within the confines of Zambia's existing environmental regulations.
- The Environmental Council and local councils both license effluent waste discharge, apply different standards, use different inspection methods, and do not respect each other's authority.

Recommendations

- The Environmental Council should ensure that it applies the law and levies fines evenhandedly, regardless of who owns a given company or how large it is. Toward this end, the council should clearly explain and publicize its inspection criteria so that

judgments about which companies are operating within environmental standards are transparent. Environmental assessments of projects should become public record, so citizens can see which projects are environmentally sound and why.

- The GRZ as a whole needs to take a practical look at its environmental regulations to assess if they are realistic, given Zambia's level of development. Impediments to environmental compliance should be identified and ascribed to whatever factor is responsible. If there are areas in which no business can reasonably comply, the GRZ should consider easing regulations until the impediments to compliance can be addressed.
- As noted elsewhere, licensing authorities should also increase their awareness of and coordination with other Zambian regulators. The Environmental Council's mandate to license effluent discharge should replace the local council's role in regulating wastewater discharge.

Reporting to Government

This section covers all the business application and reporting procedures required of the typical business in Zambia—including business registration, specialized licensing, and all required tax registration and reporting requirements.

5.1 Business Registration

The Registrar's office is responsible for registering all businesses and trade names in Zambia, as well as processing patents and trademarks. The Companies Act of 1994 regulates the formation, conduct of affairs, and liquidation of all companies, including private companies, public companies, and subsidiaries. The act differentiates four types of companies that are recognized in Zambia:

- Public companies limited by share capital
- Private companies limited by share capital (maximum of 50 shareholders)
- Companies limited by guarantee (maximum of 50 employees)
- Companies with unlimited liability

Although other types of company formation are possible, including certain types of trusts and nonprofit organizations (covered by the Societies Act, as amended), the most common type of companies in Zambia are:

- Privately held companies, including branches of foreign companies (must have at least one Zambian local director);
- Partnerships and joint ventures (covered by the Business Names Act, as amended);
- Sole proprietorships; and
- Cooperatives.

Figure 5.1 illustrates the durations and fees associated with reporting to various government agencies in Zambia.

FIGURE 5.1: REPORTING/OPERATING

ACTIVITY	DURATION																								FEES	
	2 Months								2 Months								2 Months									
Company Registration	▶																								7 days	K5,000 (US\$2.70) processing fee for company name, K1,000 (US\$0.54) plus 2.5% of nominal capital for application to incorporate, K180,000 (US\$97) foreign company registration fee
Trademark Registration ¹	▶																								3.5 months	Locals: K15,000 (US\$8) trademark filing fee + K50,000 (US\$27) registration fee. Foreigners: US\$150 trademark filing fee + US\$450 trademark registration fee
Patent Registration ²	▶																								3.5 months	Locals: K30,000 (US\$16) processing fee + K15,000 (US\$8) completion fee; Foreigners: US\$100 processing fee US\$100 completion fee
Acquiring Investment Certificate	▶																								2 months	US\$250 + VAT (processing fee) + US\$1,000 (License Fee)
Banking Licenses	▶																								3 months	K5 million (US\$2703) for commercial + K3 million (US\$1623) for non-bank financial institutions
Tourist Enterprise Authorization License ³									▶																2.5 months	Ranging from a minimum of US\$561 to a maximum of US\$1,261 depending on 1/2% of the capital
Hotels Board License																	▶								1 month	None
Environmental Council Licenses ⁴	▶																								1.5 months	K100,000 average
VAT Registration ⁵	▶																								2 weeks	None
Mining Licenses ⁶	▶																								2 months	Varies
Import/Export License ⁷	▶																								3 months	K525,000
Customs Clearance																									3 days	Varies

FOOTNOTES

- 1 Registrar of Companies is considering to apply same fees to both Zambians and non-Zambians
- 2 Registrar of Companies is considering to apply same fees to both Zambians and non-Zambians
- 3 This activity has to start after the building plans are approved. See Figure 1.
- 4 Application should be made 6 months prior to commencing operations. Fees range depending on the type of license.
- 5 Required for firms above the threshold of K30 million (US\$16,216) in any consecutive 12 months.
- 6 This activity may start after obtaining a visitor's visa for business purposes.
- 7 The duration is for a license for chemicals and must be submitted to the Environmental Council 3 months before shipment.

5.1.1 Process

5.1.1.1 Registration and Incorporation of Companies

A few criteria determine the type of company an investor may form in Zambia. A private company must have a minimum of K500,000 (US\$270) in share capital to incorporate in Zambia; a public company must have K1 million (US\$540) in share capital. A company incorporated in Zambia must consist of two or more people and, although there are no nationality requirements relating to who can own a Zambian firm, more than 50 percent of the directors, including a managing or executive director, should be Zambian citizens or established residents with valid entry permits.

After getting a valid Visitor's Visa, there are three steps to register a company in Zambia.

Initiate a names clearance. This is done by bringing in a written request to clear a company name in Zambia and paying a K5,000 (US\$2.70) processing fee. According to Registry officials, this process, which involves a database search, usually takes one to two days. Confirmation of this process comes in a letter of acceptance, which can either be picked up from the Registrar or received through the mail.

Investor is to incorporate under Zambia law. Incorporation application forms can be purchased at the Registrar's office for K8,000 (US\$4.30) apiece. Included in the Companies Act are dozens of 50 forms relating to incorporating, changing company status, and declaring consent as a shareholder or director, but three forms are the most widely used (see Annex A).

Pay 2.5 percent of the nominal capital plus K1,000 (US\$0.54) for processing the application. The application forms ask an investor to supply information about the key owners and managers of the firm; an applicant is no longer required to submit a memorandum of association. According to Registry officials, this process takes one to two days, at the end of which an investor is issued a certificate of incorporation and a certificate of commencement of business.¹

These certificates need not to be renewed, but each year companies must file an annual return that includes such information as the company's location, nominal capital, changes in shareholders, and level of indebtedness.

Prior to operating, public companies must issue K1 million (US\$540) worth of shares, and private companies must present proof that at least K50,000 (US\$27) of operating capital is deposited in the country. A company must submit a declaration that it has complied with these capital requirements to the Registrar before it commences operations.

¹ Some businesses report that they were not issued the certificate of commencement of business, but have had no problems operating their enterprise.

In order to ensure that applications are completed properly, the Registrar requests that registration applications be submitted to the Office of the Registrar in Lusaka.

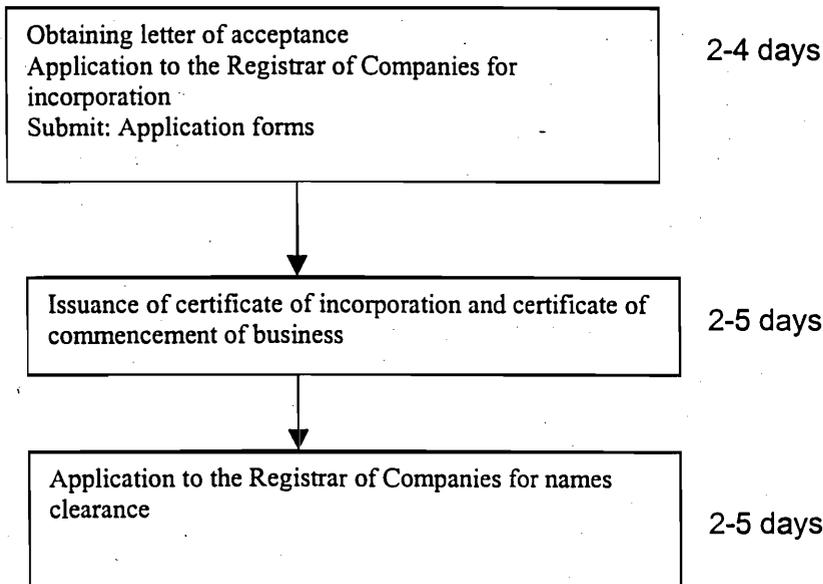
Branches and foreign companies and foreign companies that purchase Zambian companies are required to register with the Registrar within 28 days of operation or purchase, respectively. According to the Companies Act, to register a foreign company must present the Registrar:

- Completed Companies Form 46
- Certified copy of the “charter, statutes, regulations, memorandum and articles, or other instrument constituting, or defining the constitution of” the company
- Signed statements of acceptance of appointment for each documentary agent and local director
- Description of and documents relating to any charge on any property or in Zambia
- Registration fee of K180,000 (US\$97)

If all of the information is in order, Registrar Officials state that a foreign company is issued a Registration Certificate in two or three days.

Figure 5.2 illustrates the procedures and time frame for registering a company in Zambia.

Figure 5.2: Company Registration



Note: The reported duration for each activity is based on estimates from both the public and private sector. The Registrar states that each activity takes one to three days, and several private-sector respondents suggested that each activity can take up to four or five days.

5.1.1.2 Trademarks

The Registrar's Department of Patents and Companies manages the processing of trademarks and patents. In addition to being a signatory of the 1971 Paris Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works, Zambia is a member of the International Intellectual Property Association and a party to two regional protocols related to intellectual property.

Trademarks may be registered under the Trademarks Act of 1989. After an initial term of seven years, a trademark may be renewed for a further 14-year period innumerable times. A trademark owner is advised to begin renewing his or her trademark six and a half months prior to the end of its validity.

To apply for a trademark in Zambia, an investor must submit seven examples of the product in question and fill in Trade Marks Form 2. For Zambians, the trademark filing fee is K15,000 (US\$8); for non-Zambians, the fee is US\$150. The application form requests standard trademark information, including the name of the product, its international classification, and its technical description.

Once an application is filed, registry officials review the application to assess its conformity to the guidelines of the act and the product's technical features. Once this review is complete, which officials state takes one to two days, an announcement of a trademark application is gazetted for two months in the *Zambia Trademarks Journal*. The *Journal* is printed monthly, so depending on when a trademark application is cleared for gazetting, the process can take more than three and a half months. If no objections are lodged, the Registrar issues a trademark, which costs Zambians K50,000 (US\$27) and foreigners US\$450.

If a registered trademark remains unused for five years and one month, any citizen can file a petition the Registrar to withdraw the trademark. Trademark owners can authorize a licensee to utilize their trademarks.

5.1.1.3 Patents

The 1995 Patents Act covers Zambia's protection of patent rights. Patents are valid for an initial period of 16 years and renewable thereafter.

Zambia allows for two ways to file for patents. The conventional way is to file for a patent in one's home country and seek recognition of it in Zambia when the patented product is ready to be sold or produced in Zambia. If a patent has been registered within an investor's home country, the investor can complete an application for the Zambian Registrar of Companies to recognize the patent in Zambia. A complete application includes the following:

- Official application form
- Processing fee of K30,000 (US\$16) for Zambians and US\$100 for non-Zambians

- Two copies of the patent specifications and design drawings (if applicable)
- Two copies of the granting country's "priority documents"
- Deed of assignment to prove that the filer is the true originator of the invention or owner of the patent

Once the completed application is filed with the Registrar, it undergoes a formal review process during which the technical and legal merit of the application are scrutinized. Registry officials state that this process usually takes one to three days. After the application is reviewed, it is gazetted for three months. If no objections are lodged, the applicant pays a completion fee of K15,000 (US\$8) for Zambians and US\$100 for non-Zambians. After the third year of the 16-year patent period, a patent owner must file for renewal, and the fees for the patent rights change, based on the value of the item patented.

The second unconventional patent application process is similar to the first. This process, set up to accommodate the Harare Convention on Patents, is designed for someone who invents an item in Africa that can be patented. To follow this process, an applicant submits the following:

- An official application form
- A processing fee of K30,000 (US \$16) for Zambians and US \$100 for non-Zambians
- Two copies of the patent specifications and design drawings (if applicable)
- A deed of assignment to prove that the filer is the true originator of the invention or owner of the patent

The unconventional applicant can choose in which signatory states he or she wants patent protection. The review process and period for gazetting are the same as for the conventional patent track.

5.1.2 Analysis

5.1.2.1 Issues

The company registration process is widely reported to be efficient and transparent. The Registrar of Companies was recently de-linked from the Ministry of Trade, Commerce, and Industry, and Registrar officials report that this change has improved overall responsiveness to customers. Nonetheless, some issues should be addressed.

- According to Register officials, the company registration process involves an examination of detailed corporate documents and financial statements, yet other public agencies require the same or similar information for licenses. Other agencies also require detailed information about companies, adding to the reporting requirements investors face in Zambia. In particular, some of the information required in the Registrar's annual filing related to a company's financial performance is duplicative of information collected by the ZRA and the ZIC. One investor with extensive experience in the company registration process noted that the Registrar

does not require companies to submit detailed financial statements for registration, yet Registrar officials maintain that such records must be lodged with them.

- The act includes dozens of forms used to cover the variants of company registration, changes in company status, and declarations of shareholders and company directors. Generally, the registration forms each ask the same questions and the differences among each type of form are slight. Furthermore, investors report that the majority of the Registrar's official forms are no longer used or required.
- The Registrar's criteria for assessing if an investor is ready to do business of some of the Investment Centre's activities, and include some requirements about for depositing money in country that seem to be vestiges of the era of exchange controls in Zambia. For example, given the lack of exchange controls and the small amount of money involved, it is unclear why the Registrar requires a company to demonstrate that it has K50,000 (US\$27) deposited in a bank in Zambia prior to commencing business. Many in the business community feel that this sum is too low to indicate meaningfully an ability to commence business.
- The duality of the fees charged by the Registrar highlights the fact that the fees assessed do not reflect the actual costs of processing applications. Furthermore, the two-tier fee structure amounts to subsidizing Zambian entrepreneurs, albeit in an inefficient manner, and taxing foreign ones. If the government wishes to promote indigenous Zambian entrepreneurship, the GRZ can find many models of small business development that do not warp administrative fee structures. The Registrar of Companies is considering changing its fee structures so that non-Zambians and Zambians would pay the same fees, but has not yet changed its policy.
- Some in the private sector expressed concerns about the lack of protection of intellectual property rights. Both the existence of "knock-off" products sold on Lusaka's streets and the weakness of the commercial court system are concerns to some in the private sector. Given that simple contract disputes are rarely adjudicated adequately and in a timely fashion in Zambia, few investors feel that more complex conflicts over intellectual property rights will be effectively mediated in the courts.

5.1.2.2 Recommendations

- The Registrar should coordinate with other agencies to simplify the application requirements for registering a company, and desist from requesting the same detailed financial and business information required by the ZRA and the ZIC. The Registrar's annual filing should be simplified to request only information about changes in share ownership or directors. Information about profits, loss, and indebtedness is best collected by the ZRA. Public officials report that the ZRA and the Registrar currently share some information, and this practice should be expanded to other regulatory agencies.

- As other Zambia agencies have done, the Registrar should create simpler, multi-purpose forms to lessen the paperwork burden on registry staff and the private sector. Furthermore, if forms in the Companies Act or related legislation are no longer in use, the law should be amended to eliminate them.
- Given the government's recent liberalization of foreign exchange and repatriation of profits regulations, proving that an investor has deposited K50,000 (US\$27) in a bank in Zambia seems to be of little utility. Furthermore, in US dollars the amount specified is a paltry sum that serves little purpose as a deposit or proof of sufficient operating capital.
- It is recommended that the Registrar bring its processing fees in line with its estimated operating costs and abolish its two-tier fee system. As a self-financing agency, the Registrar should examine ways to collect fees that offset its costs. If the GRZ wishes to subsidize Zambian companies, more effective means can be identified beyond registration procedures.
- The government should bring its legal infrastructure up to speed with the economy, including drafting laws and creating enforcement mechanisms to protect intellectual property rights and contractual obligations. A commercial court system, binding arbitration, and a small claims court system should all be considered by Zambian legal reformers. Additionally, the Registrar should work with the relevant Zambian security agencies to enforce laws against knock-off products that are sold or manufactured in the country.

5.2 Tax Registration and Reporting

The major legislation related to Zambian income tax is the Income Tax Act of 1995, Cap. 323. Zambian taxes include individual and corporate income tax, import tariffs, excise taxes, and value added tax (VAT). Administration of the tax system is handled by the Zambia Revenue Authority (ZRA), a quasi-independent agency that was recently carved out of the Ministry of Finance and has been undergoing a series of restructuring and performance improvement programs. The ZRA's departments, each headed by a commissioner, are Direct Taxes, VAT, and Customs and Excise. Customs and Excise procedures are addressed in the chapter 6.

5.2.1. Process

5.2.1.1 Direct Tax Registration, Assessment, and Rates

The ZRA's Department of Direct Taxes administers corporate and individual income tax, mineral royalty tax, and property transfer tax. In regard to income tax, the GRZ recognizes three categories of companies: partnerships, limited companies, and self-employed entities. In the case of partnerships, partners are taxed individually. The Zambian Direct Taxes Division follows a tax year of April 1 to March 31, although some

farming enterprises may petition to have a tax year ending September 30, conforming to the seasonal nature of their business.

Registration.

To register with ZRA to pay corporate income tax, a company must first register with the Registrar of Companies. Companies must complete a tax registrant form and submit it to the local ZRA office, care of the Commissioner of Direct Taxes, along with a copy of the Zambian certificate of incorporation and a copy of the company's memorandum of association.

Except for employees covered by a Pay As You Earn (PAYE) scheme, all individuals and entities receiving taxable income in Zambia must notify the ZRA in writing within 30 days of receiving compensation.

Income Tax. Zambia has several schemes for the assessment and collection of income taxes.

- Pay As You Earn

PAYE is a method of collecting taxes at the source of an individual's employment. The employer is responsible for deducting a certain amount of tax from his or her employee's salary or wages each payday, and then remitting the tax to the ZRA. This method shifts the burden of responsibility to the employer. Depending on the annual revenue of the company, the ZRA collects PAYE taxes monthly or quarterly. Currently, companies with an annual turnover of more than K2 million (US\$1,081) must remit their employees' taxes monthly within 14 days of a month's end. The ZRA requires that a company complete a CF/P16 card monthly for each employee and return it along with a check to the Collector of Taxes. Employee income tax payments are audited annually, and companies must submit an annual certificate of pay and tax deducted, Form ITF/P22.

Individual income tax rates are assessed based on four bands of income. Individuals earning K84,000 (US\$45) per year or less do not pay taxes, and the first K70,000 earned counts as a tax credit to everyone. At K1.2 million (US\$649) per year an individual is taxed at a rate of 10 percent. The next K600,000 (US\$324) is assessed at a rate of 20 percent, and the balance thereafter is assessed at 30 percent.

- Company tax

Company tax is a form of income tax levied on companies with limited liability. Companies are required to remit an estimated tax payment on a quarterly basis to the ZRA using Form CF270(C). To avoid paying fines, companies must adjust these estimated payments over the course of the year so that each quarter, estimated payments are at least 80 percent of the total due. Once per year corporations are audited for actual tax due and required to file Form ITF/2a.

three general tax rates apply to companies in Zambia. The basic tax rate is currently 35 percent of corporate profits, adjusted for tax purposes. Companies listed on the Lusaka stock exchange pay 30 percent. Banks earning less than K100 million (US\$54,054) per year pay tax at a rate of 35 percent, and banking institutions with annual turnover in excess of K100 million annually pay 45 percent. Business losses can generally be carried forward for five years. A self-employed person pays tax at a rate of 30 percent.

Exceptions to these tax rates include income earned from farming by any person or company and fertilizer manufacturers, which incur a maximum of 15 percent tax. Mining enterprises pay a maximum corporate tax of 10 percent and can carry business losses forward for ten years. Income from the export of nontraditional products, which are defined as any good or service unrelated to mining, is taxed a rate of 15 percent. Exporting companies are required to record clearly which goods are exported and to keep supporting documentation, including commercial invoices, proofs of sale, and copies of all export documentation (EXD forms).

Provisional tax payments are demanded by ZRA four times a year with an annual filing of exact tax returns. Officially, the Direct Taxes Department pledges to issue any rebates within 14 days of filing. Direct Taxes officers concede that at present issuing returns can take up to three months. ZRA officials assert that this delay is largely due to cash shortages within the Ministry of Finance, which allocates whatever monies the ZRA pledges to rebate. While the time in which VAT rebates are to be paid is mandated by law, Direct Taxes and Customs and Excise refunds are dependent on the availability of cash within the Zambian government.

Withholding tax. Withholding tax (WHT) is deducted from the following sources of income:

- Rents
- Interest
- Dividends
- Royalties
- Management fees and payments made either to non-resident contractors engaged in construction and haulage, or resident consultants

The current rate of WHT on all types of income is 15 percent, except on interest and dividends paid by successor companies to ZCCM, for which the rate is 10%.

In the case of rental income, the tenant is required to deduct WHT from the gross rental charge and remit the tax to the ZRA on behalf of the landlord. The landlord is also liable to pay the tax due on the gross rent (less allowable expenses) with no relief granted for WHT. Thus, the landlord is responsible for ensuring that his tenants remit tax payments to the ZRA.

The first K20,000 (US\$11) in dividend earnings is tax free. For holders of a valid investment certificate, dividends earned from farming are exempt for the first five years.

Monthly tax payments are to be filed with the ZRA using Form CF.82.A, and an annual audit of these payments is completed using Form CF/182A.

Base tax

A base tax is a presumptive tax levied on small-scale businesses that cannot manage to maintain adequate business records on which to base a correct tax assessment at the end of the charge year. Currently, base tax is fixed at 266 penalty units (1 penalty unit equals 180 Kwacha, or US\$0.10), which is equivalent to K47,880 (US\$26) per year.

Mineral Royalty Tax

Mineral royalty tax is a levy on all holders of a large-scale mining license on the “net back value” at 2 percent. The net back value is the market value of minerals free on board at the point of export from Zambia or, in the case of consumption within Zambia, at the point of delivery within Zambia, less: the cost of transport, including insurance and handling charges, from the mining area to the point of export or delivery, and the cost of smelting and refinery and refining or other processing costs, except on the processing costs as related to processing normally carried out in Zambia in the mining area.

The market value means the realized price for a sale free on board at the point of export from Zambia or the point of delivery within Zambia

Property Transfer Tax

There is no capital gains tax in Zambia *per se*, but there is a capital transfer tax is charged on the realizable value of property being transferred at a rate of 2.5 percent of the gross sale amount. The tax is payable by the transferor.

Property, in this case, means any land (including any buildings, structures, or additions) and any share issued by a company in Zambia that is not listed on the Lusaka Stock Exchange. The personal sale of a car is not taxed.

Penalties

All persons or companies are required by law to submit their returns, accompanied by the balance of tax payable, to the ZRA. Failure to comply may result in statutory penalties being charged, which may include fines and imprisonment.

Value Added Tax

Registration

Since July 1995, all companies operating in Zambia above a certain revenue threshold need to register with the ZRA to pay VAT. The VAT is intended to collect revenue at

each stage of a product or service life cycle at which value is added. Currently the rate of VAT charged is 17.5 percent. Businesses are required by law to register as VAT traders if they supply taxable goods or services and their taxable turnover exceeds one of the following mandated threshold requirements:

- K30 million (US\$16,216) in any 12 consecutive months
- K7.5 million (US\$4,054) in any 3 consecutive months
- Taxable turnover is expected to exceed either of the amounts stipulated above within the subsequent 12 or 3 months, respectively

A trader, including both companies and individuals, must register within one month of commencing operations or of surpassing the revenue thresholds stated above.

To register for VAT an operating company must submit the following to the Commissioner of VAT:

- For corporate entities, a certificate of incorporation issued by the Zambian Registrar of Companies
- For individuals, a valid business or trading license
- VAT application form (VAT Form 1)

A company or trader can register for VAT prior to operating by submitting VAT Form 1 and an investor's license issued by the Zambia Investment. Once an application has been filed with the ZRA, a dated VAT certificate, which includes an official VAT tracking number, is issued with 14 days. This certificate must be prominently displayed in the place(s) of business. VAT registration is free.

Firms that earn less than the amounts specified above can register for VAT on a voluntary basis. Voluntary registration was introduced to accommodate traders whose taxable turnover did not meet the statutory requirement. Once registered, the trader has the same obligations to abide by the same rules that apply to statutory registered traders. To enable the VAT department to find voluntary registrants, typically small traders who do not work from fixed addresses, submit the documents listed above plus a site or business plan that specifies where they operate.

VAT Rates and Assessment

Businesses earning more than K300 million (US \$162,162) per year are required to pay an actual VAT amount monthly; firms earning less than K300 million annually may opt to file quarterly. In each filing period, companies are granted a 21-day grace period to pay the actual amount of VAT owed, but if a trader does not pay the amount owed within this period, penalties and fines may be assessed. VAT refunds are assessed based on the difference between the VAT a company pays on inputs (input tax) and the VAT it charges its customers (Output Tax). Officially, the ZRA says it refunds all VAT within a calendar month of receiving an application for rebate.

A trader with a taxable turnover not exceeding K300 million (US\$162,162) per year can apply for the cash accounting or payment basis. This cash accounting method requires a trader to account for the VAT charged on their sales on amounts actually received and claim VAT only on purchases that have been paid.

The ZRA classifies some items as zero-rated, meaning that it does not charge VAT on the final sale of an item, but a supplier can deduct the VAT charged on the inputs used to make the good. Items that are classified as exempt are also not assessed VAT, but suppliers of these items cannot deduct VAT on the goods and services needed to make these supplies.

To claim a VAT refund each tax period, a company must keep tax invoices or certified copies of VAT Forms 200, 202, or 203 for each item purchased. Claims for VAT refunds are processed through a computerized credibility model and other checks to assess if the amount claimed is accurate. VAT officials estimate that approximately 50 percent of VAT claims pass the credibility test and almost 25 percent of VAT refund claims require an on site inspection of business records. Valid tax invoices must contain the following:

- The words "tax invoice" clearly printed on the form
- Company's name, address, and VAT registration number
- Name and address of the purchaser of the goods in question.

Companies seeking VAT input tax credits must present a certified copy of VAT Form 200, which indicates the amount of import VAT paid to customs during importation. Zambia's 17.5 percent VAT is assessed on all other costs, fees, and taxes, including customs and excise duties, involved in importing. VAT Form 203 is used for goods cleared at bonded warehouses.

The standard tax period commences on the first day and ends on the last day of each calendar month. Traders are expected to submit their returns by the 21st day of the following month. Traders have been given the option to apply for extended accounting periods to three months, subject to satisfying certain conditions. As of July 1998, the maximum annual taxable turnover limit for qualifying for the three-month tax period has been doubled from K100 million (US\$54,054) to K200 million (US\$108,108).

The Zambian VAT tax year runs from July 1 to June 31. Tax records are to be maintained in the English language and kept for six years.

VAT Tax Exemptions

To promote tourism, Zambia introduced a zero-rated tour package. A tour package is defined as "supplied by a tour operator or travel agent, licensed as such by the Zambia National Tourist Board, to a tourist who is not a resident of Zambia, subject to such conditions as the Commissioner General may by rule require." To qualify as a tour package, the tourists must make bookings before arriving in Zambia, and the package

should include accommodation and other tour services (i.e., game drive, canoeing, rafting, etc.) for a period of at least 24 hours.

The VAT refund scheme is another incentive designed to attract tourists in Zambia. Its purpose is to permit tourists to claim a rebate on VAT paid on goods purchased from retailers who are approved to participate in the scheme. The following steps are involved in claiming a rebate:

1. Tourist purchases an item at a registered store and pays the required VAT; participating retailer issues an export tax invoice, VAT Form 263, to the tourist at the time of purchase.
2. Upon departure from Zambia, the VAT Form 263 is presented to a customs official, who will certify and stamp the export tax invoice and ensure that the goods purchased are intended for export purposes.
3. VAT Refund Administrator, a private company out of South Africa, will send a check for the total amount of the refund to the tourist's home address. This check can be denominated in US dollars or several other major western currencies.

VAT officials suggest that receiving a refund takes, on average, six weeks. The three designated points of departure where tourists can use this scheme are Lusaka International Airport, Ndola International Airport, or the Victoria Falls border post.

Local and Other Taxes

Local councils are granted limited authority to tax and to charge fees under Zambian legislation, including the ground rent and site development approval fees described in chapter 4. Officially, local councils are entitled to tax 3 percent of local businesses' turnover, and the taxes are to be paid annually. The local council has the right to inspect a business's accounts.

Several other government entities have the right to charge levies and fees. For example, companies engaged in the sale of fuel are assessed special levies, and some local authorities assess transportation charges for goods moving through their jurisdictions.

5.2.2 Analysis

Issues

Most businesspeople interviewed gave the ZRA credit for increasing their overall effectiveness, improving rates of tax collection, and clarifying rules and procedures. In recent years the ZRA has improved its explanation of tax reporting requirements by establishing an "Advice Centre" and publishing several explanatory pamphlets. Along with the Zambia Privatization Authority, the ZRA is widely regarded as one of the more efficient agencies in the Zambian government. The ZRA is in the midst of a

modernization program aimed at improving procedural efficiency through such measures as staff training, structural reorganization, and computerizing operations. Nonetheless, the private sector raised several concerns about current ZRA operations.

- While customer service has improved in recent years, many in the business community remain dissatisfied with some front-line officials within the ZRA. Members of the business community suggest that some lower-level staff in all of the ZRA's divisions can be unresponsive, uninformed, or officious when handling customer complaints. A major complaint about the ZRA echoed in the private sector is that front-line officials are too aggressive in their actions and attitude. Some corporate interviewees noted that the ZRA seems to assume that all companies cheat on their taxes and treat the private sector accordingly. ZRA officials note that staff training programs have recently been completed, and they suggest that service improvement levels are likely to increase in the future. When ZRA officials suspect that a business is avoiding paying the appropriate taxes, however, they are instructed to thoroughly examine the matter.
- Many companies noted that while the ZRA is strict about payments and paperwork being filed correctly and on time, the Departments of Direct Taxes and Customs and Excise are slow and unresponsive when it comes to processing refunds or explaining the status of a tax return. Some in the business sector state that the Direct Taxes Division compels companies to pay higher-than-accurate provisional taxes, essentially extracting an interest-free loan from the private sector. ZRA officials note that due to the government's current cash flow problems and Zambia's historically high rates of revenue evasion, the ZRA must more strictly and aggressively fulfill its mandate to collect revenue. After years of lax enforcement, ZRA officials suggest, the private sector is reacting negatively to a new and more effective tax collection agency. Furthermore, Customs and Excise and Direct Taxes officials assert that their ability to rebate is hampered by cash flow problems experienced by the Ministry of Finance, which has ultimate authority for financing tax refunds. While Zambian law compels VAT tax to be rebated within 30 days of a filing, no legislation covers Direct Taxes or Customs and Excise refunds.
- Executives of some companies complained about the amount of paperwork required of them to comply with ZRA requirements, especially in the area of employee compensation. Officially, an employer must obtain a registered employee card for all employees over a low-income threshold. Agricultural enterprises, for example, note that based on the current income thresholds, they are responsible for maintaining paperwork on, and paying income taxes for, casual and seasonal workers, which can run into the dozens for even relatively small farms. For larger farms that employ hundreds of people, this administrative burden can be significant, and the Direct Taxes Department is reputed to be strict about inspecting a company's records and assessing fines if things are askew. Two businesspeople asserted that this reporting requirement was an inducement for companies to try to pay workers "under the table," thereby avoiding maintaining records on hundreds of low-wage, casual workers. Supplementing the ZRA's financial reporting demands are the filing

requirements of the Zambian Workmen's Compensation Fund, the Zambian Provident Fund, and local tax authorities.

- Investors suggest that paying taxes at the local level lacks transparency and creates an unstable investment environment. Many businesspeople report that they are unclear about what authority the local councils have in regard to taxation. Others noted that they are routinely assessed new, arbitrary taxes by local authorities. Many in the private sector ascribe this tendency to the fact that local councils are often poorly managed and devoid of sufficient revenues to operate effectively. Ultimately, the new levies charged by local councils may or may not be paid, but the tendency to create arbitrary taxes creates uncertainty among investors and undermines the credibility of local officials.
- It is unclear why the Direct Taxes Department requires that companies submit their memorandum of association. One businessman noted that many Zambian companies do not have such documents and cannot supply them if asked by the ZRA. Public officials and private-sector representatives suggest that this requirement has been outmoded by a change in Zambian law related to company formation.
- Although each division collects almost exactly the same information, the Commissioners of both VAT and Direct Taxes require companies to register using separate forms and procedures. VAT and Direct Taxes officials suggest that under their modernization program, a single registration process will be created.

Recommendations

The ZRA's modernization program is a work in progress with some successes and some outcomes not yet realized. According to ZRA officials, some of the recommendations outlined below are currently being addressed.

- Based on feedback from the private sector, it is recommended that the ZRA monitor the results of its recently completed staff training program. Given the numerous procedural and management changes that have occurred within the ZRA in recent years, the organization may wish to introduce an effective, ongoing mechanism to inform mid- and lower-level staff of new procedures and policies. Some businesspeople suggested that the ZRA introduce a feedback system to document and respond to taxpayer complaints, concerns, and compliments.
- The Departments of Direct Taxes and Customs and Excise should seek to pay out rebates, refunds, and deposits due to the private sector in a timely manner. These departments should adopt the same legal mandate as the VAT Department, thereby committing to processing rebates within a reasonable and legally specified period of time.

- The ZRA may wish to review the paperwork it requires of private business. Many companies suggest that complying with the ZRA's standards for documentation is often difficult and cumbersome, especially in the arena of employee compensation.
- The private sector must be better informed by the ZRA and the Ministry of Local Government about the taxation powers of local governments. Additionally, there should be a countrywide effort to empower the local councils sufficiently while making them more responsible. The local councils should be given either more resources or less responsibility. The local councils could develop a local tax base, perhaps through property taxes, and derive sufficient revenues to offer the services for which they are formally responsible, but concerns about local-level accountability must be addressed simultaneously.
- Given the fact that the Registrar of Companies, Zambia's chief repository of company information, no longer finds it necessary to require companies to submit their memoranda of association to register, the ZRA should omit this document from its requirements for tax registration. Any conflicts arising out of changes in the legal requirements for registering a company should be harmonized with the rules and regulations governing tax registration.
- The Commissioners of VAT and Direct Taxes should complete their plans to combine registration procedures, forms, and attachments into one coherent process.

5.3 Specialized Licenses

In addition to basic registration requirements, Zambian law requires that certain types of businesses and processes be regulated by a line ministry or similar agency. Additionally, most businesses in Zambia are required to comply with a series of local level licensing requirements.

Agricultural Licenses

The Ministry of Agriculture, Food, and Fisheries has three divisions involved in the importing/exporting and licensing of agricultural products. These divisions are the Market Development Branch (MDB), Animal Production and Health Branch (APHB), and Phytosanitary Unit at Mt. Makulu. These three divisions work in coordination to regulate the production and import/export of agroproducts in Zambia.

The MDB issues export and import permits for all agricultural products, including livestock and crops. These import/export permits are subject to verification by officers from the APHB and Phytosanitary Unit, each of which issues a license. Officers from the APHB and the Phytosanitary Unit ensure that the products licensed match what is being imported and exported, and are being transported up to certain standards. In order for these divisions to work effectively, the Ministry has proposed that two officers be positioned at each of the border posts of Chirundu, Nakonde, Chipata/Mwami,

Kazungula, Kariba, and Livingstone. One official would deal with livestock issues and the other with all plant based products.

Currently, export and import permits are issued at no cost, although the Ministry is considering charging a nominal fee to offset operational costs. The import permit is valid for three months, and the export permit is valid for one month. The import License is valid for one month and costs K1,000 (US\$0.54) and the export license is valid for three months and its cost varies based on the product concerned. For example, dogs, cats, and horses cost K1,500 (US\$0.81) per consignment, game trophies cost K5,000 (US\$2.70) per shipment, and Kapenta fish cost K7,500 (US\$4) per 8 metric tons.

To export livestock, the MDB inspects animals and issues a permit. If livestock is being exported to neighboring countries, a provincial veterinary officer quarantines the animals for 30-35 days at the border before releasing them and certifying them disease free.

The MDB issues a veterinary license that shows that edible animal products are disease free. Abattoirs for the slaughter of livestock for export are inspected every three months, and a sanitary certificate is issued if found satisfactory. The MDB requires that a new license be granted for every import and export transaction, and the Ministry commits itself to granting a license not more than two days after an application has been filed.

Plant exports are inspected and a phytosanitary certificate is issued for each consignment.

For food products, a license is issued for imports and exports by the Ministry of Commerce, Trade, and Industry.

Fertilizer is classified as a chemical, and thus Zambian regulations state that all importers and manufacturers must register with the Environmental Council of Zambia under Statutory Instrument No. 20 of 1994, pursuant to regulations governing the environmental protection of pollution control.

Standard procedures for importing and making fertilizer are covered in chapter 4, section 4.4, Environmental Compliance. With regard to fertilizer, two types of monitoring are carried out: periodical reports from the manufacturer and random checks to ensure compliance. Once the council grants an importer or manufacturer's request to handle fertilizer, a license is issued. This license is valid for 6 to 36 months.

The Ministry of Agriculture issues and approves permits for importation of seeds. To import seeds, customs checks for the Zambian Ministry of Agriculture license and a phytosanitary certificate from the country of origin. Any farmer can import a consignment of seeds for his own use, but resale requires licensing by the Ministry of Agriculture. Inspections and tests are carried out by Mt. Makulu Research Station, part of the Ministry.

Mining Licenses

Prospecting and mining are regulated by the Mines and Minerals Act, No. 31, of 1995. The act refers to the issuance of three types of licenses—prospecting permits, mining permits, and mining licenses.

The same form can be used to apply for any of the three types of licenses. Fees are set according to the type of mining activity regulated, size of the operation, and amount of land involved. Officially, obtaining these licenses up to 60 days from the time a completed application is received, otherwise the applicant is given the right to prospect or mine automatically. Typically, a response is forthcoming within three to four weeks.

Zambia's mining licenses are summarized in Table below.

License or Permit	Fee (K)*	Duration
Prospecting License	90,000	Up to 2 years; renewable up to 5 years
Retention License	180,000	Up to 3 years; renewable up to 3 years
Mining License	180,000	Up to 25 years; renewable up to 25 years
Prospecting Permit	45,000	Up to 2 years; not renewable
Small Scale Mining License	45,000	Up to 10 years; renewable up to 10 years
Gemstone License	45,000	Up to 10 years; renewable up to 10 years
Artisan's Mining Rights	18,000	Up to 2 years; not renewable
Reconnaissance Permit	45,000	Not applicable
Gemstone Sales Certificate	180,000	Not applicable

* Fees are based on multiplying K180 per fee unit; at the time of writing, US\$1 =1,850 Kwacha.

Additional fees are assessed based on the size of the area under concession (fees range from K900/ha to K36,000/ha) and the tonnage mined.

The Ministry of Mines coordinates with the Ministry of the Environment to ensure that mining companies do the following when finished with their operations:

- Replace lost soil
- Make the land capable of supporting agriculture, forestry, or similar uses
- Take steps to protect the environment when work is temporarily suspended
- Take steps to improve a quarry site once operations have ceased in the quarry

Banking Licenses

Financial institutions are governed by the Banking and Financial Services Act of 1994. The Bank of Zambia conducts many of the usual activities expected of a central bank, including issuing currency, lending to private banks, and formulating monetary policy. Financial institutions that conduct money market transactions are registered by the Zambian Central Bank, and financial institutions that conduct capital markets transactions are registered by the Zambian Securities Commission.

The financial sector in Zambia has witnessed a period of consolidation in recent years, with several public and private banks being liquidated. Approximately 20 banks now operate in Zambia, including several international banks. Zambian law does not distinguish between commercial and merchant banks, but both types exist in Zambia. Additionally, there are several other types of financial institutions in Zambia, including:

- Tree building societies that collect deposits and provide mortgage financing
- The state owned Development Bank of Zambia, which finances development projects
- The state-owned National Savings and Credit Bank, which offers tax-free interest to individual and corporate depositors
- Small Industries Development Organization, which provides credit to small Zambian enterprises
- Zambian Venture Capital Fund, owned jointly by private investors and international development organizations, which provides equity and loan financing to successful businesses

The standard application, Form BFI, is needed to register as a financial institution in Zambia. In addition to submitting the application form, investors in the finance sector must submit:

- Biographical data form
- Questionnaire for directors, if applicable
- Three year business plan
- Curriculum vita for all principal managers and shareholders
- Any criminal records for all principal managers and shareholders
- Copy of the company registration certificate issued by the Registrar of Companies
- Details about experience in the banking industry
- Application fee of K5 million (US\$2703) for commercial banks and K3 million (US\$1623) for non-bank financial institutions

In addition to the Bank of Zambia, the Zambian police, Interpol, and the Anti-Corruption Commission check these applications.

The minimum capital requirement (net of pre-operating expenses) for a financial institution is K2 billion (US\$1,081,081). By law the Bank of Zambia has 120 days to respond to an application, but it normally it takes one to two months for a judgment about licensing an institution to operate. Once an application is granted, a financial institution must begin operating within two months, although it is possible to file for an extension. Applications for an operating extension are reviewed on the basis of status of the project and the achievements to date.

All complaints about commercial banks are brought to Bank of Zambia, which is tasked to investigate and write a report based on its findings.

Aircraft Licenses

Consideration of licensing and regulating the use of various types of aircraft, including helicopters, small planes, and microlites and similar craft, is relevant for Zambia's tourism industry. Companies that operate charter flights and air tours are required to obtain a variety of licenses from the Department of Civil Aviation in the Ministry of Transportation.

License	Fee (K/US \$)	Renewal Period
Air service	400,000/54	Valid until revoked
Aerodrome	200,000/27	Once per year
Radio	150,000/81	Once per year
Pilots	231250/125 per pilot	Once per year
Maintenance	231250/125	Four times a year*
Medical	45,000/24	Once per year

*An investor must travel to Lusaka to pay this fee.

To apply to import aircraft, a company must be inspected by civil aviation staff, who authenticate the air-worthiness of the aircraft. The inspectors will also assess the maintenance arrangements for the aircraft and ascertain absolute ownership of the aircraft. The following general steps are involved in importing and operating an aircraft in Zambia:

1. The investor submits a letter of intent to the Director of Civil Aviation stating for what the aircraft is to be used.
2. DCA approves or denies the request.
3. Investor acquires a Certificate of Airworthiness and/or Export Certificate of Airworthiness from the country of origin.
4. Investor must make the aircraft and storage place/airstrip available for inspection.
5. Maintenance, inspection, flight test, and calibration records must be made available for inspection.

The following documents must also be submitted to the Director of Civil Aviation for retention:

- Copy of the Type Certificate and accompanying Certificate technical data sheets
- Copy of the Certificate of Airworthiness for Export issued by the country where the aircraft was made
- Copy of the current Certificate of Airworthiness
- Copy of the flight manual or equivalent
- Complete set of the manufacturer's maintenance, overhaul, and repair manuals and an illustrated parts catalogue
- Complete set of the manufacturer's service bulletins or equivalent documents relating to the airplane
- Copy of the crew operations manual
- Copy of the mass and balance report

- Flight test reports for the avionics systems and the aircraft
- Copy of the "maintenance planning data
- Electrical load analysis covering all services
- Complete set of wiring diagrams covering all radio and electrical installations
- Copy of the Master Minimum Equipment List

If a type of aircraft is imported to Zambia for the first time, the DCA investigates whether or not the manufacturer's country has similar airworthiness standards. Depending on the findings of this investigation and the type of aircraft, the DCA may choose to:

1. Inspect the aircraft while it is being built, normally in the plant where it is being built to assess if its design, assembly, and construction meet DCA standards
2. Perform a series of flight tests on the aircraft
3. Inspect the aircraft's maintenance facility
4. Suspend the Airworthiness Certificate if any dangerous features of the craft are not addressed by the current standards

The operator or importer the craft must also provide training to DCA operations and engineering staff related to the aircraft. Only Zambian citizens, "bona-fide residents," and other individuals approved by the Director of Civil Aviation may operate aircraft in Zambia. For companies to operate aircraft, they must be established under Zambian law or established under foreign law and approved by the Minister of Transportation.

To receive a Certificate of Registration, and importer or operator must furnish the DCA with a letter of application indicating the following:

- Aircraft's particulars
- Aircraft's intended use is
- Description of maintenance arrangements
- Bill of sale and/or copy of the lease agreement
- Customs and VAT clearances

After an application has been lodged and all the requirements above have been fulfilled, it takes approximately five days to receive a Certificate of Registration; speedier turnaround times have been reported. Once a Certificate of Registration is issued for an aircraft, it is permanent unless revoked or cancelled, or the aircraft is de-registered from the country. The Director of Civil Aviation, under the Ministry of Transport and Communication, grants the certificate.

All the licenses listed above require an inspection or, in the case of pilots, a test for renewal. The inspections generally involve onsite examination of the business's facilities, aircraft, repair capacity, and operations. The company inspected is liable for the cost of the inspectors' transportation and expenses during an inspection visit. The DCA inspectors inspect the aircraft annually and as the Director feels is necessary.

Tourist-oriented enterprises that use aircraft must also acquire the usual ZNTB license and all applicable local council licenses. These companies must also pay K200,000 (US\$108) to add or remove an aircraft from the fleet and K200,000 (US\$108) in fines if license payment is late.

Energy Sector Licenses

As stipulated in the Energy Regulation Act, as amended, “the production, generation, transmission, distribution, or supply of energy...the manufacture, refining, transportation, storage, or supply of fuel...[and] the manufacture, distribution, and supply of” certain industrial equipment related to fuel are regulated by a GRZ Energy Regulation Board.

The board is composed of seven individuals appointed by the Minister of Energy. Three of the members are full-time board members and four, including the chair, serve part-time for a renewable term of three years. Each of the three permanent members must have expertise in electricity, petroleum, or “other forms of energy.” In conjunction with other agencies that have overlapping authority, the board is tasked with licensing, monitoring, and inspecting companies in the energy sector.

Any person may apply to the Board for a license to operate an energy-related business. To obtain a license, the following submissions are required:

- Application Form ERB 01 in triplicate
- Five year business plan
- Current and the latest audited financial accounts
- Details of any expected subsequent substantial capital outflows including major decommissioning costs
- Estimates of net annual cash flows
- 0.1% of the “cost of an undertaking or cost of establishing an undertaking
- K360,000 (US\$195) in application inspection fees.²

After a completed application is lodged, it is gazetted for public review. Any objections must be lodged within 30 days, and an objector must pay K900,000 (US\$486) to file a protest with the Board.³

Licenses are renewed only when they expire, and there is some flexibility in the duration of the licenses. If a licensee is not renewed, he or she can appeal to the Ministry of Energy. The Board is entitled to conduct inspections of facilities at any reasonable time.

Local Council Licenses

Under the Trades Licensing Act of 1968 (as amended), city, town, and district councils regulate and license a variety of corporate activities in Zambia. Most of these licenses are designed to regulate small-scale enterprises, but some apply to larger businesses as

² This amount is based on 2,000 fee units, which at the time of writing equaled K180 per fee unit.

³ This amount is based on 2,000 fee units, which at the time of writing equaled K180 per fee unit.

well. The fees and time frame for approval and receipt of these licenses vary from council to council. There are two basic categories that apply to licenses at this level: “specified areas,” which are generally urban areas, and “other areas,” which are generally rural areas where the Ministry of Commerce, Trade, and Industry designates who the appropriate local licensing authority shall be.

Generally, the procedure for obtaining a council license involves the following steps:

1. For Wholesale and Retail Licenses, an initial application for licensing requires that an investor advertise his business idea in the *Government Gazette* for a minimum of two weeks and in at least two issues of two local newspapers.
2. The Lusaka City Council also requires that companies produce a copy of their Certificate of Incorporation and individuals are asked to submit a copy of the Certificate of Registration.
3. Anyone who objects to the proposal may contact the local council within 21 days from the last publication of the notice. If there are no objections within this period, an investor can bring a copy of the advertisement to the city council and complete whichever forms are required.
4. The forms are sent to the local council's Departments of Health, Fire, and Building Inspectorate.
5. After the various departments have received copies of a license application form, inspection arrangements are made. Although it is not specified in the Act, typically the private sector is liable to provide transportation for inspectors to and from the facility to be inspected.
6. Next, the investor is called for an interview before the Licensing Committee. In Ndola, for example, this committee is composed of seven department directors and seven elected councilors.
7. If the committee approves an application, in Ndola a license is issued upon payment of fees. In Lusaka, the fees are collected at the time of filing an application form.

In most cases, a company must renew its local council licenses annually. The renewal process usually requires that a business pay the costs for inspectors to come and investigate the operations of the business plus any required renewal fees. Inspectors include staff from the Public Health and Building Inspectorates of the Local Councils.

According to documents provided by the Ministry of Commerce, Trade, and Industry, and interviews with local council staff, the council licenses:

License	Specified Area Fee Range (K)*	Other Area Fee Range (K)*
Wholesale	100,000 - 180,000	1,500 - 2,7000
Retail	50,000 - 90,000	2,500 - 4,500
Hawker	5,000 - 15,000	1,500 - 2,700
Pedlar	2,500 - 4,500	800 - 1,400
Pedlar - Restaurant	1,000 - 1,800	300 - 540
Stall	5,000 - 9,000	800 - 1,400
Restricted	5,000 - 9,000	800 - 1,440
Manufacturer's	100000 - 180,000	15,000 - 27,000
Commercial Traveler	108,000-144,000	15,500-27,000
Agents	50,000 - 90,000	2,500 - 4,500
Liquor	80,000	80,000
Opaque Beer	10,000	10,000
Duplicate	1,000 - 1,800	300 - 540

* Note: Fee ranges are based on multiplying K180 per fee unit.

Manufacturer's licenses are granted after an investor gets a Manufacturing License from the Ministry of Commerce, Trade, and Industry. To get a Manufacturing License, an applicant fills out a standard Manufacturing form. The applicant is asked to produce photocopies of his or her Zambian Certificate of Incorporation, or Certificate of Registration for companies. This license costs K180,000 (US\$97) and takes one to two weeks to process.

5.3.1 Analysis

Issues

Licensing and inspections are two of the more problematic areas of governance in Zambia. Representatives of the private sector suggested that the government should boost intra-agency coordination, streamline regulatory procedures, and increasing the effectiveness of inspectors.

- There is a legitimate need for national and local officials to protect the public interest through such mechanisms as granting permits and inspecting businesses, but several areas of jurisdictional overlap and little coordination is evident among government agencies in the arena of licensing in Zambia. For example, the Environmental Council and local councils both license effluent waste discharge, apply different standards, use different inspection methods, and do not respect each other's authority. The Ministry of Commerce, Trade, and Industry and local councils both issue licenses for manufacturers, and it is unclear why both need to license the same activity. It is unclear why different divisions within Ministry of Agriculture, Food, and Fisheries issue both import/export permits and licenses for the same products, and it is also unclear why these permits and licenses must be renewed every one to three months.

- Many agencies require investors to submit information to them that does not relate to the activity being regulated, thereby increasing the amount of paperwork requested of the private sector and the amount of time and effort required of regulators to grant an approval. For example, several different agencies, including the Hotels Board, Department of Immigration, ZNTB, the Energy Regulations Board, and Investment Centre, require a company to submit its business plan, and company executives are not certain what criteria are being applied by each in its review. Based on feedback from the public and private sectors in Zambia, many agencies do not need these comprehensive applications to regulate an activity effectively and probably lack the staff expertise to render a meaningful judgment about them. Smaller companies in particular suggest that preparing detailed financial projections and business plans is a burdensome task, especially when various agencies want different information and time frames included in a plan. Several representatives of small and medium-sized businesses noted that due to Zambia's inflation rate, shifting business climate, and other factors, it is meaningless to prepare financial projections and a business plan for more than two years in the future.
- Throughout Zambia, inspections are unusually cumbersome and expensive for the private sector. Many businesspeople told stories of having to provide roundtrip transportation for inspectors, pay them a daily fee during the inspection period, and cover hotel and per diem costs. One company reported being compelled to fly Zambian regulators overseas to inspect the plant that manufactured their aircraft—all at the company's expense. Some businesspeople suspect that inspectors deliberately inspect slowly, accomplishing a task in days when hours are required, in order to appear thorough and to extend an expense-free trip. A few businesspeople charge that most agencies have transportation resources that are misallocated for use by senior personnel only.
- The local-level regime for inspecting and regulating private commerce is particularly fraught with problems. While local officials are tasked to carry out certain regulatory functions, in many instances the business community says that they lack the resources or expertise to do so. Additionally, among the private sector, the local councils are notorious for being slow and unresponsive, often stopping a project while they inefficiently attempt to fulfil their regulatory mandate. Furthermore, many investors said that they perceived local officials to be using licensing as a way to generate personal and institutional revenue, and not a legitimate tool of regulating private commerce.
- The private sector's aggravation at the time and financial burden of inspections is compounded by the fact that many agencies inspect businesses. Zambian government agencies that undertake inspections include the Department of Immigration; Department of Labour; Ministry of Agriculture, Food, and Fisheries; Zambia National Tourist Board; Hotels Board; Investment Centre; Ministry of Transportation; Environmental Council; ZRA; and several different divisions of the local authorities. Furthermore, some businesspeople reported that they had to have

specific pieces of machinery inspected, delaying installation times and increasing the company's costs.

- Investors report aggravation because few inspectors are considered effective or skilled enough to perform a meaningful regulatory role. Representatives of the private sector say that many of the inspectors that visit them are unfamiliar with the item, process, or technology that they are mandated to inspect. At best, some businesspeople said, inspections can be a waste of company time and money, and at worst this lack of expertise creates opportunities for dishonest companies to evade regulations, and officious or corrupt inspectors to blackmail businesses.
- The attitude of some inspectors is also troubling to the private sector. It is reported that inspectors often try to wield their power over a company for personal gain. Some businesspeople stated that the fact that a company complied with existing regulations or an inspector was unfamiliar with the technology or process he or she was examining would not necessarily influence the inspector's findings. Many companies stated that inspectors were generally "officious" and "petty" and "took things personally," and many private citizens said that they felt a need to please an inspector personally in order to keep their business operational.
- The Energy Regulations Board is relatively new and, to date, there has been limited private participation in the sector. Thus, this report does not specifically address the Board's performance or any potential problems experienced by private companies operating in the Zambian energy field.

Recommendations

- Licensing authorities should increase their awareness of and coordination with other Zambian regulators. For example, the Environmental Council's mandate to license effluent discharge should replace the local council's role in regulating wastewater discharge. Due to capacity and transparency concerns, many in the private sector argue that the Ministry of Trade, Commerce, and Industry should take over all of the local authorities' regulation and licensing of traders. This would eliminate a layer of reporting to government and, many businesspeople believe, increase efficiency. At the very least, the local councils' duplicative Manufacturer's License should be dropped in favor of the Ministry's Manufacturing License. The Ministry of Agriculture should streamline its regulatory procedures to combine the Import and Export Permits with the Import and Export Licenses.
- Zambian government agencies should review their permit application procedures with an eye toward eliminating information that is either not meaningfully evaluated or not relevant to the specific license or permit. Licensing authorities should evaluate what information is essential for them to regulate a private effectively company and not require an applicant to submit extraneous information. Public agencies should also ensure that if they request technical information, they should have staff with sufficient technical expertise to evaluate the information required of companies.

Currently a company is required to submit the same information, often including detailed business plans, building blueprints, and financial statements, to various public agencies the lack the internal knowledge to render quality judgments. For example, Department of Immigration should cease reviewing business plans, for which it lacks the expertise. As the front door of the Zambian government for investors, the Investment Centre should coordinate its review of business plans with other agencies to ensure that ZIC staff examine whatever information is required by the country's regulators. Because the Investment Centre Board is already composed of representatives from several different public agencies, there should be increased coordination at the level of business plan review. Furthermore, when requesting business plans, regulatory agencies should request realistic projections and time frames.

- It is highly irregular for the government to require the private sector to pay for the direct costs of being inspected, and this policy should be eliminated. The government must recognize that companies are currently required to commit for that purpose a significant amount of time and money, which represents a significant disincentive to start businesses in Zambia. Regulatory agencies should adjust their fees to offset the costs of inspections, increase coordination with other agencies to conduct inspections, and consider using private companies or professional societies to conduct inspections.
- If local authorities do not have the technical and material resources to regulate companies adequately, the national government should either change its mandate or shift expertise and capacity to the local level. Based on a consensus in Zambia that local councils are under-funded and poorly managed, it would seem appropriate for the national authorities to limit the local council's regulatory role as much as possible.
- The sheer number of inspections should be reduced in Zambia. This can be done by assessing the value and effectiveness of inspections and increasing coordination among government agencies. For example, given that the Department of Immigration's inspections are fairly superficial, their mandate can be taken over by the Investment Centre. If agencies harmonized their annual inspections and scheduled all of them for a certain month, perhaps at the close of the Zambian financial year, companies could better predict and plan for inspections and regulators could share transportation costs.
- In general, Zambian inspectors should be better trained technically and in terms of customer service. When a regulatory agency lacks the expertise to evaluate a given process or item, it may be possible to defer to a Zambian professional or business association or recommended private-sector experts. The model used by the Environmental Council, which relies on a roster of environmental consultants to conduct independent environmental impact assessments, may be of interest to other agencies.

- Finally, any training should include changing the attitudes among Zambian inspectors. The goal should be shifting inspectors thinking from a command-and-control mindset, where an inspection is an exercise in wielding power to compel compliance, to a partnership, customer-service oriented model, where an inspection is a way to quickly, efficiently, and unobtrusively ensure that a company is operating within the bounds of the public good.
- Due to the Energy Regulation Board's relative newness and the lack of private sector input about it during the research for this report, no meaningful comment about the organization can be offered at this time.

5.4 Tourism Licensing

Due to its relative complexity and importance to Zambia, licensing of tourist enterprises is addressed separately from other specialized licenses. Tourism in Zambia is regulated by the Tourism Act No. 29 of 1979. Tourist enterprises are classified as hotels (and variants, such as lodges and guesthouses), tour operators, travel agencies, air charter businesses, vehicle or vessel leasing agencies, restaurants and cafes, discotheques, convention centers, and any other business deemed to cater to tourists as decreed by statutory instrument of the Minister of Tourism.

Most tourist enterprises in Zambia are required to obtain different licenses from a few agencies to open and operate a business. Hotels and resorts fall under the jurisdiction of both the Zambia National Tourist Board (ZNTB), a quasi-independent agency formerly within the Ministry of Tourism, and the Hotels Board, an agency within the Ministry of Tourism. Local authorities have a role in approving building and land plans, issuing liquor licenses, and inspecting for such conditions as fire safety. Most often, acquisition and development of land and facilities for tourism purposes also require contact with the Ministry of Lands, local councils, local chiefs, NPWS, and the Environmental Council. According to the Ministry of Lands, in Zambia 92 percent of the land is under the titular control of local chiefs and 6 percent is owned by the national government. There are 34 game management areas, over which the NPWS shares administrative control with local chiefs, and 19 national parks, over which the NPWS has full control.

The Tourist Enterprise Authorization License

The ZNTB issues one license for a variety of tourist enterprises. To grant a Tourist Enterprise Authorization License, the ZNTB requires that investors submit the following:

- Five-year business plan, including marketing analysis, proposed revenues, and estimated labor needs
- Cash flow statement and/or proof of capital requirements for the project (ZNTB officials state that they will grant "conditional approval," subject to certain conditions, if this requirement is not fully met at the time of application)

- Building and/or architectural plans authorized by the planning department of the local council (ZNTB officials state that they will grant “conditional approval,” subject to certain conditions, if this requirement is not fully met at the time of applying)
- Letter from investor’s commercial bank indicating level of account activity, the bank’s willingness to provide working capital finance for the project, and how the overdraft facility will be secured
- Financial and personal information about shareholders
- Curriculum vitae for owners and shareholders
- Certificate of incorporation or business registration certificate
- Memorandum and Articles of Association (for limited companies)
- Title deeds and/or lease agreement (ZNTB officials state that to expedite the process they will accept lease agreements ratified by the local council but not yet approved by the Ministry of Lands)
- Most recent audited accounts (for existing businesses)
- Environmental Impact Assessment or, for small projects, a project brief verified by the Environmental Council (ZNTB officials state that they will grant “conditional approval,” subject to certain conditions, if this requirement is not fully met at the time of application)
- Department of National Parks and Wildlife Service Permit (if interested in the areas designated for game management or within national parks)
- Investment License (if investors are not Zambians)
- Four copies of Form TOU/1 (this form costs K5,000, or US \$2.70 per copy)
- Non-refundable fee of US \$450

The ZNTB’s operating policy of granting conditional approvals is meant to speed up the approvals process for investors. After having been granted conditional approval, smaller investors generally have 12 months to complete whatever work remains for their project, and larger investors typically have 24 months to finish. Conditional approvals come in the form of a letter from the Secretary of the Technical Development Committee of the ZNTB Board, which approves Tourism Enterprise Authorization Licenses, stating that conditional approval has been granted, what conditions remain to be finished, and by when work is to be complete. This committee is composed of representatives from the Environmental Council, Investment Centre, Department of Town and Country Planning, Hotels and Tourism Institute Trust, Tourism Council of Zambia, Zambia Revenue Authority, Department of National Parks and Wildlife Service, Ministry of Tourism, Hotels Board, Department of Civil Aviation, National Heritage Preservation Commission, and three ZNTB Board members.

Once the application is filed, the ZNTB gazettes the proposed project for 30 days to see if there are any public objections to the project. ZNTB officials state that objections are rare. After this 30-day period, the project application and any objections are presented to the ZNTB Board for review, and, typically, within another month, the Committee rules on the application. Depending on the date that an application is filed, gazetting and ZNTB Board review can take more than four months. If the Board rejects an application, investors are entitled to appeal the decision to the Minister of Tourism. By statute, the ZNTB Board meets on a quarterly basis, but officials say that the Board can convene

meetings more frequently if necessary. Applications can be filed by fax, mail, or in person.

The cost of a Tourist License varies based on the amount of money invested. A license costs 0.5 percent of the total capital investment, ranging from a minimum cost of US\$561 and a maximum of US\$1,261. The figure of US\$561 is composed of the processing fee of US\$450 paid when filing one's forms, US\$100 paid upon receipt of the license, plus US \$11 for the purchase of four copies of the necessary form.

Renewal Process

Once a license is granted, it must be renewed annually, which involves a twice-annual inspection by the ZNTB and, if an accommodation, the Hotels Board, to assess if the investment adheres to certain health, operational, and safety standards. The renewal process includes the following steps:

1. Purchasing a renewal form for K5,000 (US\$2.70)
2. Providing copies of audited accounts for the previous year
3. Passing one to four inspections per year

Investors are advised to file to renew their licenses a month before it lapses. About a month after filing for renewal a tourist operator should expect inspectors to appear. A renewal license is granted between one and three months later, although a facility is allowed to operate before the renewal actually arrives.

ZNTB officials state that at present they do not have the resources to satisfy their inspections mandate. Officially they are required to inspect a tourist enterprise four times per year, but ZNTB officials state that the four inspectors on staff lack the time, funds, and transportation capacity to visit Zambia's 300 or so registered tourist enterprises.

Hotels Board Licenses

If an investor is building or managing accommodations or similar facilities, the ZNTB approves the project plan and authorizes construction to begin, but does not issue the operating license. An investor is issued a letter or authorization when construction has been approved. All forms of business-oriented accommodation, including hotels, motels, lodges, camps, and guesthouses, are required to obtain a license from the Hotels Board.

The Hotels Board becomes involved when an application for an accommodation is before the ZNTB's Technical Development Committee. During the committee's review process, an investor's building plans are forwarded to the Hotels Board for scrutiny. The Hotels Board states that these plans are inspected within one week and forwarded back to the committee with an indication that the plans are approved or in need of modification. The Hotels Board becomes involved in an accommodation project again after a project is completed. At this time the Hotels Board and the ZNTB inspect the

construction, and, if all is in order, the Hotels Board grants a license to Keep or Manage a Hotel.

Prior to obtaining this License, an investor must to complete the licensing requirements of the ZNTB and some local authorities. These steps include the following:

1. Obtaining a Health Permit and Fire Safety Certificate issued by the local council and attaching them to the application form
2. Putting all furniture and equipment in place
3. Acquiring a Tourist Enterprise Authorization License from ZNTB
4. Obtaining a liquor license from the provincial or local liquor licensing authority
5. Pass a final inspection by the Hotels Board

Once all the required steps are completed, the Hotels board issues the License. Hotels Board officials state that receiving a license usually takes two to four weeks.

In addition, an individual who is to serve as the general manager of a hotel or accommodation must be licensed by the Hotels Board. To get a Hotel Manager's License, an investor needs to submit a medical certificate or letter from any private medical practitioner attesting to his or her health, a letter or curriculum vitae detailing relevant experience, and a completed Application for Hotel Manager's License, Form 4. Generally, the Hotels Board will issues this license within two to four weeks of the application's receipt.

The cost of a License to Keep or Manage a Hotel varies, depending on the accommodation's rating, which in Zambia ranges from ungraded to five stars. The Hotels License fees, as specified in a 1995 Statutory Instrument issued by the Minister of Tourism, are as follows:

Ungraded	=	K250,000 (US\$432)
One star	=	K400,000 (US\$378)
Two star	=	K500,000 (US\$324)
Three star	=	K600,000 (US\$270)
Four star	=	K700,000 (US\$216)
Five star	=	K800,000 (US\$135)

Camps and lodges are also graded, ranging from A to E.

All types of accommodations are subject to inspection at least twice a year. Currently, the Hotels Board's three inspectors are assigned to an estimated 114 tourist enterprises that are registered to be inspected.⁴

In conformity with the hotel rating system, the Hotels Board inspects for such things as:

- Quality of service

⁴ This estimate was calculated in early June of 1998.

- Compliance with fire safety regulations
- Quality, health, and hygiene of management and employees
- Number of employees
- Type and quality of equipment
- Sanitation of food storage and service facilities
- Quality of lighting
- Quality and consistency of water supply
- General cleanliness and comfort

Renewal Process

To renew a license to Keep or Manage a Hotel, an accommodation must pass two inspections per year. Officially, if the Hotels Board inspectors identify an aspect of a facility that is below code, the investor is informed in writing within one month of the inspection. This letter from the Hotels Board will specify what improvements must be made and by when they are to be completed. If the requisite improvements are made on time, the fees are collected and the license is renewed. If improvements are not made, a license may be suspended until such time as the accommodation's shortcomings are fixed.

5.4.1 Analysis

Issues

Despite government efforts to promote tourism, starting and operating a tourist enterprise in Zambia is fairly complicated, compared to other countries in the region. Furthermore, tourist operations, many of which are set in less-developed parts of the country, face more difficulties in acquiring and developing land and managing inspections than urban-based businesses. Although not addressed in detail in this report, specific types of tourist enterprises, such as hunting operations, must secure additional approvals, and the procedures for acquiring and renewing these licenses are generally regarded by the business community as cumbersome. The Ministry of Tourism has drafted legislation to change some of its operations, but to date these changes are neither approved by the Minister nor operationalized. In regard to licensing, several issues bear further analysis by the government.

- As the Ministry of Tourism has acknowledged, the necessity of having a Hotel's Board separate from the ZNTB is unclear, and its application and inspection procedures are, in many ways, duplicative of those of the ZNTB. The Ministry of Tourism has drafted a plan to merge these agencies and streamline operations, but the effect of these as yet unimplemented changes is unclear.
- As noted previously, some Zambian licensing applications are duplicative, thereby increasing the amount of paperwork required of the private sector and unnecessarily adding to the workload of civil servants. In particular, the ZNTB and the ZIC

application requirements are very similar and detailed. In addition to an Investment Certificate, the ZNTB requires foreign investors to submit a copy of their Zambian Certificate of Incorporation, bank reference, business plan, and some proof that the process of purchasing land is complete. To get an Investment Certificate, an investor must submit these same pieces of information, plus a detailed application form that requests other information also necessary, for a ZNTB license. With regard to the business plan, ZNTB officials state that this is because they require that tourist enterprises are farther along in the process of securing land.

- The ZNTB requires that investors submit a five-year business plan. Several entrepreneurs in the tourist sector, many of whom operate relatively small businesses, state that it is both time consuming and challenging to produce meaningful business plans and financial projections for more than two years in the future. Zambia's inflation rate, the unpredictable nature of tourism, and other economic factors make five-year plans difficult to produce and highly speculative, some investors claim.
- Officially the ZNTB is required to meet only once every three months. Given the fact that the ZNTB license is only one step in a long chain of events that are required for a tourist enterprise to become operational, the infrequency of the Board's meetings has the potential to slow down projects.
- Some in the tourist industry suggest that the ZNTB grants too many licenses in some industries that are already saturated, thereby increasing competition too much and overusing Zambia's natural resources. Tourist operators also suggest that the government needs to have a long-range development plan that can chart the reasonable growth of the industry, meshes with local development plans, and protects the country's environment. ZNTB officials suggest that while competition may be steep regionally and in the Victoria Falls area, Zambia has yet to appropriately develop its industry.
- While investors generally assess the inspectors from the Hotels Board and the ZNTB to be professional and generally easy to work with, these inspections are still criticized for their frequency and the cost to the investor. ZNTB officials state that they lack transportation resources and funds, and must therefore extract the cost of inspections from the business community. The need for quarterly inspections by the ZNTB is unclear, and in practice ZNTB inspectors state that due to time and financial constraints they cannot get to most tourist enterprises more than once or twice a year.
- As mentioned previously, requiring a company's Memorandum of Association conflicts with the Registrar's policy of no longer requiring or validating this document to register a firm in Zambia.

Recommendations

- Licensing hotels and other tourist enterprises seems readily manageable by a single agency, and combining these two entities would simplify the process for establishing a tourist business in Zambia. If the ZNTB could also license the operation of hotels, an investor could be freed from an entire application process and inspections regime, potentially speed up project development by three to five weeks, and save money in permit fees.
- The Investment Centre and the ZNTB are represented on each other's projects approval boards, and this cooperation should extend to the submissions required of their project review procedures. Because many investors have Investment Certificates, the utility of having a separate tourism license at all is unclear. However, if the GRZ decides that it is necessary to require businesses in the tourism sector to have a special license, the process can be improved and streamlined. The ZNTB should review its submission requirements and eliminate request for any piece of information that is not essential. Given that the ZNTB requires much of the same information as the ZIC, the latter should not require holders of Investment Certificates to duplicate these submissions. If the ZNTB wants additional or more detailed information, the two agencies should work together to amend the ZIC application procedure to accommodate the needs of the ZNTB. Because the ZNTB issues conditional approvals anyway, there is room to harmonize these procedures and demonstrate additional flexibility for the sake of attracting investment and expediting project completions.
- Many in the private sector suggest that if the ZNTB continues to request business plans, they should be no more than two- or three-year projections. The Ministry of Tourism should recognize the inconvenience and cost associated with producing these detailed plans and financial projections, especially for small businesses.
- The ZNTB Board should meet more frequently in order to expedite approvals. If legislation must be amended to effect this change, the Ministry of Tourism should include this provision in its current reorganization plan.
- The Ministry of Tourism should increase its coordination with the local councils, the tourism industry, the Ministry of Environment, and other stakeholders in planning the use of land and the number of operators.
- The ZNTB and the Hotels Board should identify alternative mechanisms to fund their inspections. Adjusting license fees to cover the costs of inspections and sharing resources with other government agencies may be a solution. Furthermore, the Ministry of Tourism should identify how many annual inspections are absolutely necessary to regulate the industry effectively and adjust their guidelines appropriately.

- The ZNTB should stop requiring a company to submit a Memorandum of Association.

5.5 Acquiring Incentives

With recent revisions to Zambia's 1993 Investment Act, there are few specific incentives for which investors need apply. The agriculture, mining, and small business sectors have the most attractive investment incentives. While the procedures for acquiring these incentives vary, in general one must first register as a corporate and taxpaying entity in Zambia. Obtaining an Investment Certificate or registering with a Ministry such as Agriculture or Mines can also entitle an investor to certain incentives. Many of Zambia's incentives are related to allowing a qualified, registered company to import goods and materials at a zero percent or exempt rate of duty.

To apply for incentives, a company must contact several different ministries and government agencies, although the Zambia Investment Centre can assist investors. The procedures for applying to the various line ministries for incentives vary, but essentially an investor must fill in an application form to obtain a sectoral license. In some cases the investor must contact the ZRA and other agencies directly and furnish copies of its sectoral license to access incentives.

General Incentives

An individual who invests US\$250,000 or more and employs ten people is entitled to receive a Self-employment Permit or Resident Permit for himself or herself, and up to five work permits for expatriates.

Raw materials imports, including chemicals, rubber, steel, and plastics, can be imported duty free.

Companies that are listed on the Lusaka Stock Exchange are taxed at 30 percent, thereby receiving a 5 percent reduction in corporate tax.

Machinery in used in farming, manufacturing, and tourism is entitled to a 50 percent wear-and-tear allowance for the first two years of operation.

Agricultural and Rural Incentives

Businesses that operate in areas officially designated as rural receive a tax reduction of one-seventh of their total tax burden.

Dividends from farming are tax exempt for the first five years of a farm's operations.

Capital equipment for farming is duty exempt during importation.

100 percent of capital expenditure on farm improvements are entitled to tax deduction.

100 percent of the expenses required to clearing or improving farm are deductible.

Capital expenditures on growing coffee, tea, bananas, citrus fruits, or "similar plants qualify for a 10 percent development allowance in the first year of production.

Farming and non-traditional (i.e., non-mining oriented) export enterprises are entitled to a corporate tax rate of 15 percent.

Small Business Incentives

Small businesses that register with the Executive Director of the Small Enterprises Development Board (SEDB) as a small-scale enterprise under the Small Enterprises Development Act of 1996 are granted certain incentives. To be registered, an enterprise must be registered with the Registrar of Companies under the Business Name Act, or Register under the Companies Act, or the Societies Act. Under the SEDB Act of 1996, the businesses that access these incentives must be working in the manufacturing, construction, trading, and services sectors. Applications can be lodged through the SEDB's nine regional offices, located in each of Zambia's regional centers. Companies wishing to seek classification as a Small Enterprise under the 1996 Act must register with the Ministry of Commerce, Trade, and Industry and the ZRA.

Once a company is registered, then it is freed of the following:

- 1) The Requirements of manufacturing licenses
- 2) Payment of any tax on factory premises for the first five years of operation
- 3) Paying income taxes for three years if in an urban area and five years if in a rural area
- 4) Licensing fees
- 5) "Payment of rates on factory premises" for the first five years

Landlords who rent buildings or land to micro- or small enterprises for industrial or commercial uses are entitled to capital allowances as follows:

- 1) Ten percent of the cost in the first year of use of a building
- 2) Five percent per year for wear and tear on the cost of an industrial estate
- 3) Fifty percent per year for the first two years for implements, machinery, and plant used exclusively for farming and manufacturing

These landlords are also exempt from paying tax on the rent they receive from small businesses and from "payment of rates on factory premises."

Financial institutions providing loans or other financial services to microenterprises are granted the following incentives:

- 1) Exemptions on tax derived from income earned from loans to small businesses engaged in manufacturing
- 2) "maintenance of concessionary core liquid asset ratios and reserve requirements"
- 3) Expenses incurred for training staff specializing in microfinance are treated as tax deductible

To apply to be registered as a small enterprise, an investor must fill in an application form and pay a K10,000 (US\$5) application fee. The application form is intended to determine the viability of the business in question. Processing times vary, but usually the process takes four weeks. If a business is deemed qualified to be considered a small enterprise under the act, an investor pays a non-refundable K50,000 (US\$27) registration fee. After this, the company is entered into the directory of small enterprises. Once an application is lodged, the review process takes about a month, and certificates are issued in Lusaka. Documented incentives are mailed.

The SEDB also offers a range of business-oriented services to registered microenterprises.

To apply as a qualifying landlord or financial institution, investors are directed to contact the Regional Manager of their local SEDB office.

Mining Incentives

To import mining equipment duty free, an investor must first apply with Ministry of Mines for either a prospecting or mining license. Once approved, the Ministry of Mines will contact customs and issue a mining license and a letter stating that the investor is approved for importation of duty free items. Under the Mines and Minerals Act of 1995, the importation of mining equipment, plant, and machinery is exempt from customs duties.

Tourism Incentives

Buildings designated as hotels receive a 5 percent annual wear-and-tear allowance. This allowance is 10 percent in the first year of operation.

Zambia Investment Centre Incentives

Although it is not required, many investors apply for an Investment Certificate from the ZIC, which serves as an advocate and information service for investors. Investors who get an Investment Certificate are entitled to:

- Help in obtaining Self-employment and Employment Permits and title to land
- Help in communicating and resolving problems with government agencies regarding licensing and other matters

- Preparation of an official import schedule, in consultation with the ZRA, that is forwarded to customs specifying which capital and intermediate goods are to be rated duty free
- General information about investing in Zambia

Additionally, the ZIC offers a range of fee-based services, including incorporating a company, providing office space and support staff, staff recruitment, and drafting legal documents and commercial contracts. For acquiring lease rights for certain tracts of land, foreign investors are required to have an Investment Certificate.

To apply for an Investment Certificate, an investor must acquire a business visa, register with the Registrar of Companies, begin the process of acquiring whatever land is required, and obtain a letter of reference from a bank.

The complete application for a ZIC Certificate includes the following:

- Copy of the Zambian certificate of company registration
- Copy of a letter of reference from a bank
- Detailed business plan
- Proof that the land acquisition process had begun (a lease agreement or “Letter of Offer” from a local chief is commonly used for this)
- Completed ZIC application form
- Non-refundable processing fee of US \$250 plus VAT

After an application is submitted to the ZIC the following steps occur:

1. Investment Centre officer reviews the application for completion.
2. If the application is incomplete, a letter is mailed to the investor within two days stating what additional information is required.
3. Once an application is complete, the Investment Officer submits it for review by the ZIC’s Projects Approval Committee, which meets weekly.
4. Investments that are approved by this committee, which is composed of ZIC staff, are sent to the Investment Board for ratification by the Projects Approval Committee, meets once a month and typically renders a judgment within six weeks.

The Investment Centre Board is composed of eight representatives from government entities and seven representatives from the private sector selected by the ZIC. Board members include representatives of the Ministries of Tourism; Home Affairs; Lands; Agriculture, Food, and Fisheries; Immigration Department; Drug Enforcement Commission; Zambia Revenue Authority; Environmental Council; the Investment Centre; and at least one private-sector agriculturist and manufacturer.

The Investment Centre reports that they consider an average of 12 to 15 investments per months, and three percent of all applications are rejected.

If an investment is approved, the ZIC charges US\$1,000 to issue its Investment Certificate. Within six months, an Investment Officer will contact the investor to assess his or her progress. After one year, the ZIC will review the project to ascertain if it is functional and conforms to the proposal as approved.

5.5.1 Analysis

Issues

The Zambian investment climate has improved dramatically during the early 1990s, but has seen reversals in the mid-1990s. Several issues related to incentives remain a concern.

- Since changes in the Investment Act came into effect in 1996, many in the private sector have doubts about the value of the Investment Certificate, ostensibly the country's major avenue for acquiring incentives. Some investors suggest that the ZIC has not lived up to its goal of being a "one stop shop" that can help an investor easily navigate through the Zambian bureaucracy to set up a business. Many feel that the Investment Certificate, which is one of the most expensive licenses in Zambia, confers fewer advantages than it should. For example, possessing an Investment Certificate does not free an investor from having to submit detailed, lengthy applications for permits from other agencies and does not necessarily shorten the length of time it takes an investor to set up a business. If ZIC staff with experience in business relations are going to the trouble to conduct an extensive and time consuming review of an investor's business plan, financial records, operating requirements, and so on, it is wasteful for other agencies to require the same. It is doubtful, for example, that the Department of Immigration and the Zambia National Tourist Board, have the specialized staff available to review business plans and analyze corporate financial statements, yet either agency can essentially veto a project already approved by the ZIC.
- Given Zambia's underdeveloped infrastructure, relatively small local market for goods and services, and the difficulties in obtaining land, the package of incentives offered by the Zambian government is quite limited compared to some countries in the region. While Zambia has recently rationalized its import duties and lowered the VAT rate, the overall tax and regulatory burden are considered by some to be higher in Zambia than in other states competing for similar investment capital.
- Tourism enterprises point to several policies of the Department of Immigration that negatively affect the development of the industry in Zambia, including charging visa fees at the Livingstone border and charging visa fees for tourists who should be have been exempt under the incentives outlined in this chapter. By charging visa fees at the Livingstone border, tourist operators assert that the government is deterring many potential day visitors who would otherwise cross the bridge from the more popular Zimbabwean town of Victoria Falls. By charging visa fees to tourists who are supposed to be exempt, the Department of Immigration creates an addition cost for

tour operators to absorb. Tourist operators also note that current tax incentives, such as VAT rebates and classifying imports at a zero rate of duty, do not apply to their crucial raw materials, such as fuel and sporting equipment. The ZRA has highlighted the government's general need for revenue and pressure from the IMF to limit its tax incentives and increase rates of duty collection. To some extent, these constraints explain why Zambia has rescinded some of its investment incentives in recent years.

- Agro-producers suggest that the government's incentives related to agriculture are too narrowly defined. Some in the sector suggest that significant factors that raise their costs of doing business include a lack of quality transportation and storage providers and other services.
- Some tourist operators suggest that Zambia's current efforts to promote investment do not reflect the appropriate amount of respect for proper environmental and local planning. As a result, these businesspeople say, Zambia is developing in a random and undesirable fashion that will diminish its economic and aesthetic value in the future.

Recommendations

- The role of the Zambia Investment Centre bears particular attention. It is recommended that if the Investment Centre is to remain in operation, it should be granted the authority to expedite meaningfully the approval of investments. Toward this end, the necessary legislative and organizational changes should be made to harmonize the approval process of business ventures in Zambia. The ZIC's approvals process should reflect the needs of all other government agencies, so that when an investor receives his or her Investment Certificate, the business has been approved by a committee composed of all necessary actors concerned. Currently, the Investment Centre Board is composed of a diverse array of public and private actors, yet its decisions do not guarantee smooth sailing for investors throughout the Zambian government bureaucracy. The Investment Centre Board should be expanded and empowered to make its decision more widely respected by other government agencies. The Board should be composed of representatives from all agencies involved in regulating business activity, including the Ministry of Local Government, and the decisions they make should be final and rendered promptly. A board structure that accommodate the sectoral interests of agriculture, tourism, manufacturing, and mining through the creation of subcommittees might also expedite decisions.

Similarly, receipt of an Investment Certificate should eliminate several other aspects of applying for sectoral licenses. For example, except where a business plan requires a specialized technical or scientific level of expertise not available on the ZIC staff, only staff from the ZIC should require that investors submit lengthy and detailed applications. Thus, the ZNTB, Hotels Board, and Department of Immigration should cease requiring investors to submit this type of information. Given the

thoroughness of the application required by the ZIC and the presence of a Ministry of Tourism representative on the Project Approvals Board, the ZNTB should consider if it is necessary to license a company *per se*.

- Conventional economic wisdom suggests that a low flat corporate tax is more desirable than a series of specific incentives that must be applied for individually. For example, Hong Kong, which is well respected for its ability to attract foreign investment, offers no investment incentives, but has a 16.5 percent flat tax. This system is preferable because it is attractive enough to be competitive; easy to administer, implement, and monitor; non-distortionary; provides equal treatment to all businesses; and is fiscally conservative. If for political or budgetary reasons, a highly competitive and neutral environment such as Hong Kong's cannot be created in Zambia, then performance-based export incentives should be considered. Global experience shows that when incentives have been offered, they have been found to be most effective when designed as export incentives. This is because export incentives have less impact on government revenue and are more critical in attracting investors. If Zambia wants to increase its manufacturing and agricultural processing industries, it should consider introducing export-oriented incentives.
- The GRZ should consider including the import and use of tourism's raw materials—fuel, communications charges, cars and spare parts, food, beverages, and alcohol—in existing VAT rebate and import exemption schemes. The government should also do all it can to increase the flow of visitors to Zambia, including eliminating the border visa for day visitors from Zimbabwe.
- The GRZ should expand its tax incentives to include more downstream agricultural companies, such as grain shipping and storage companies. Encouraging growth in businesses that service agricultural producers will gradually reduce the cost of production in the sector.
- The Environmental Council and the Ministry of Tourism, each of which is represented on the ZIC Board, should ensure that they reflect valid concerns about the need to plan the siting of investments. Furthermore, the ZIC should include the Ministry of Housing and Local Government on its board to draw on the perspective of local communities.