



**REPUBLIC OF ZAMBIA**

**MINISTRY OF MINES AND MINERALS DEVELOPMENT, GOVERNMENT  
OF THE REPUBLIC OF ZAMBIA**

**REGULATORY IMPACT ASSESSMENT  
PROPOSED LOCAL CONTENT REGULATIONS FOR THE MINING SECTOR**

**November,2020**

## INTRODUCTION

Mining is Zambia's dominant industry and main stay of the economy. It accounts for 10 percent of the Gross Domestic Product (GDP), over 70 percent of foreign exchange earnings, 30 percent of Government revenue, and 8 percent of formal employment. Its annual procurement value chain has variously been estimated at between USD 3-5 billion. While mining has been critically important to the national economy, it has largely underperformed with regard to national development objectives of industrialization, economic diversification and job creation.

Over the past two decades, the sector's commodity prices have consistently been high with copper peaking at USD 9,728 per tonne in 2011. The high commodity prices attracted increased Foreign Direct Investment (FDI) flows into the mining sector and ramping up of production to over 800,000 tonnes in 2011. While this has created high economic growth rates, it has not translated into *structural economic transformation*, more formal employment opportunities and improved welfare gains.

The above situation has led to several contestations from multiple business groups (i.e. Association of Mine Suppliers and Contractors, Chambers of Commerce and Industry, Zambia Association of Manufacturers, etc.) for the increased uptake of the local goods and services by the mining industry. Multilateral agencies (African Development Bank, United Nations Economic Commission for Africa, International Labour Organisation, and United Nations Industrial Development Organisation etc.) have also advocated for the establishment of production linkages to resource extraction through the enactment of local content measures

The expectation is that enabling domestic small- and medium-sized enterprises (SMEs) access to the large mining procurement value chain will create employment, develop technical capacities, encourage technology transfer, and ultimately lead to industrialization and economic diversification.

## **PROBLEM STATEMENT**

According to the 2019 report commissioned by the African Development Bank (AfDB), the Zambian mining industry consumed an estimated US\$2.4 billion worth of selected goods and services. However, locally manufactured goods and resident service provision only accounted for 10.6% while goods and services procured from Zambian-owned firms accounted for 2.1% of total purchases.

The problem that requires action is the lack of Zambian participation in the mining industry supply chain, particularly in core goods and services. According to AfDB report the two categories make up 93% of the total mining industry annual procurement. Further, there is significant foreign participation in non-core goods and services which can be provided by Zambian owned firms should the opportunity be availed to them. Therefore, the local content legislation should include both core and non-core goods services.

The Mines and Minerals Development Act, No. 11 of 2015 attempts to address the above challenges under Section 20 by providing preference for Zambian products, contractors and services, and the employment of citizens. However, four key weaknesses have been identified in this provision and include:

1. Lack of a definition for "Local";
2. no targets or parameters provided for the procurement of locally manufactured goods and sourced services;
3. no mechanisms for monitoring, enforcing and evaluating of mining local procurement;
4. failure to adequately account for the dynamics of the mining supply chain; only mine and mineral processing licensees are bound by the local content provision, leaving out Tier 1 contractors or Original Equipment Manufacturers (OEMs); and

5. Implementation of Local Business Development (LBD) programmes as Corporate Social Responsibility (CSR) initiatives which are ad hoc resulting in failure to address the technical and financial barriers experienced by many local manufacturers and service providers.

With the aspect raised above, Section 20 has thus far failed to induce the large-scale mines to bolster their efforts to procure locally manufactured goods or locally sourced services.

## **OBJECTIVES**

### **General Objective**

The main objective of the Regulations is to support Zambia's industrialization and economic development.

### **Specific Objectives**

- (a) Promote local content in the mining value chain;
- (b) Develop local capacities in the mining industry value chain through education, skills transfer and expertise development, transfer of technology, research and development programmes;
- (c) Attain 50% employment of Zambians in the mining industry value chain by 2026; and
- (d) Achieve a minimum in-country spend for the provision of goods and services in the mining industry value chain.

## Section four

### Identification of Options

The Ministry considered the following options in order to achieve the above objectives:

- i. *The “do nothing” option*: leave the mining supply chain as it currently stands, with most goods sourced from outside of Zambia and most services provided by foreign-owned companies;
- ii. *The measured option (proposed)*: Implement legislation with escalating targets for goods and services; and
- iii. *Introduce comprehensive legislation option*: implement wide ranging targets for the procurement of manufactured goods and services with immediate effect.

#### 1. Do Nothing

The “Do Nothing” option entails that the mining sector will continue to experience the challenges that were highlighted in the problem statement. Zambian firms will continue to be marginalized from the procurement of goods and services in the mineral value chain. Goods and services will continue to be provided largely by foreign companies robbing Zambia of vital resources for development. This will slow down the pace of industrialization and economic diversification as input goods and services will continue to be imported into the country.

This legislation ensures that licence holders in the mining industry value chain, and their subcontractors are compelled to exhaust all Zambian supply capacities for goods and services prior to being allowed to procure from foreign sources.

## **2. Introduction of a Statutory Instrument on Local Content**

### **a. Measured Option**

While the challenges of local content in the mining industry are many, they are worsened by the lack of supply capacities by Zambian firms. This makes it difficult to develop and implement legislation that compels industry to procure all their input goods and services locally. Hence, there is need to adopt a measured approach as manufacturing capacities and business skills develop in order not to increase the cost profile in the mining industry. This approach should therefore cause minimal supply disruptions to the mining industry.

### **b. Comprehensive legislation option**

This option seeks to cure the challenges outlined earlier within the shortest period of time. The challenge however is Zambia's weak manufacturing sectors and expertise relating to the supply chain in the mining industry. The option would therefore cause large scale disruptions to the operations of the mining industry as mines would be compelled to use local goods and services even where these are inferior to imported inputs. The production costs would rapidly increase eroding the productivity and profitability of the industry leading to massive job losses and closure of the mines. Therefore, this option is not desirable.

*Section five*

## **COMPARISONS OF COSTS AND BENEFITS OF OPTIONS**

This report has adopted a semi quantitative analysis, based on the AfDB report to estimate the value of the mining industry procurement value chain that can potentially be localized in the short term (within 3 to 5 years). While a full cost benefits analysis is desirable, the approach taken adopts a qualitative nature due to challenges of data availability.

### **Do Nothing**

According to the AfDB report (2019) only 10.6% of the procurement value chain comprise of goods and services supplied by Zambian manufacturers and

service providers and this translates to about USD158 million. The same report indicates that only 2.1 % of total purchases are supplied by Zambian owned firms. This translates into a meagre USD50 million out of the circa USD2.4 billion. The Do Nothing option perpetuates this situation with attendant negative consequences of lost employment opportunities, an import intensive economy, macro-economic instability arising from foreign exchange shortages, a lack of industrialization opportunities and a technologically stagnate economy. Under these circumstances it is not possible to achieve the aspirations of Vision 2030 and Seventh National Development Plan (7NDP). It is also not possible to achieve social equity as Zambians will continue to be marginalized from participating in economic assets.

### **Do Nothing**

<b>Item Description</b>	<b>COST (K)</b>	<b>BENEFIT (K)</b>
<b>Government</b>		
Local Content-Monitoring	650,000	
<b>Local Business</b>		
Value of business opportunities for Zambian Suppliers and Contractors		1,047,802,000
<b>Total</b>	<b>650,000</b>	<b>1,047,802,000</b>

### **Introduction of a Statutory Instrument Option**

#### **c. The Measured Option**

This option adopts a measured approach to allow for the growth of supply capabilities in the course of implementing the Statutory Instrument (SI). The AfDB report suggests that over a three year period it is possible to localize USD1.2 billion comprising an estimated 50% of the current annual procurement value chain. This is divided as follows;

- d. USD630 million in core goods;
- e. USD377 million in core mining services;

- f. USD35 million in non-core goods; and
- g. USD137 million in non-core services.

The above benefits arise exclusively from the mining procurement value chain. However, many of the goods and services in the above categories find use in other economic sectors. For example ammonium nitrate has far greater use as a fertilizer while other core goods such as iron and steel products are also used in the economic sectors of agriculture, infrastructure, transportation, etc. The benefits accruing to the national economy are therefore far greater than the above figures suggest.

While the full costs and benefits of implementing the SI cannot be fully quantified at present, it is clear that there are resultant benefits related to industrialization, import substitution, increased formal employment (with associated consumption benefits), increased revenues, citizens participation in the national economic assets and technology and skills transfer. These benefits are assumed to far outweigh the administrative costs of implementing the SI.

**Measured Option**

<b>Item Description</b>	<b>COST (K)</b>	<b>BENEFIT (K)</b>
<b>Government</b>		
Local Content Guidelines	5,997,500	
<b>Local Business</b>		
Value of business opportunities for Zambian Suppliers and Contractors		25,200,000,000
<b>Total</b>	<b>5,997,500</b>	<b>25,200,000,000</b>



## **b. Comprehensive legislation Option**

Zambia does not have the capacity to localize the entire value of the USD2.4 billion outlined by AfDB report. This approach is not therefore feasible however, if the SI forced the localization of the entire procurement value chain this would lead to the collapse of the mining sector that provides more than 70% of the national foreign exchange earnings. The Zambian economy would collapse along with the sector as it is currently import intensive.

<b>Item Description</b>	<b>COST (K)</b>	<b>BENEFIT (K)</b>
<b>Government</b>		
Local Content Guidelines	5,997,500	
<b>Local Business</b>		
Value of business opportunities for Zambian Suppliers and Contractors		84,000,000,000
<b>Total</b>	<b>5,997,500</b>	<b>84,000,000,000</b>

*Section six*

### **STAKEHOLDER CONSULTATIONS (Pamela to insert a table of stakeholder consultations)**

#### **Summary of consultations**

The table below presents a summary of key issues for consultation, inputs from stakeholders and action taken by the Ministry. Generally, stakeholders supported the enactment of local content regulations.

Submissions from Stakeholders consulted are highlighted in Appendix 1. The following is the list of stakeholders:

- Barrick Lumwana Mine;
- Zambia Consolidated Copper Mines – Investment Holdings (ZCCM-IH);
- NFC Africa Mining;
- Mabiza Resources' Munali Nickel Mine;

- North Western Chamber of Commerce and Industry;
- Zambian Association of Manufacturers (ZAM);
- Zambian Association of Chamber of Commerce and Industry (ZACCI);
- Zambia Chamber of Mines;
- University of Zambia, School of Mines;
- Ministry of Mines and Minerals Development (MMMD);
- Ministry of Commerce Trade and Industry (MCTI);
- Business Regulatory Review Agency (BRRA);
- Zambian Development Agency (ZDA);
- Zambia Revenue Authority (ZRA);
- Association of Mine Suppliers and Contractors;
- Citizen Economic Empowerment Commission (CEEC);
- Ministry of National Development Planning (MNDP); and
- Kitwe Chamber of Commerce and Industry.

All stakeholders in the consultative process had a say in the direction that this statutory instrument took. It was generally welcomed by all sectors including the mines.

#### *Section seven*

### **SELECTION OF PREFERRED OPTION AND RECOMMENDATIONS**

The Ministry of Mines and Minerals Development recommends the introduction of a Statutory Instrument on Local Content to enforce Section 20 of Mines and Minerals Development Act No. 11 of 2015.

Both the measured and comprehensive options required the introduction of legislation (Statutory Instrument). However, measured outweighed the comprehensive option because Zambia does not have the capacity to localize the entire value of the USD2.4 billion outlined by AfDB report. The comprehensive approach is not considered best option because the SI would force the localization of the entire procurement value chain which would lead to the collapse of the mining sector. The measured option allows for the growth

of supply capabilities in the course of implementing the SI. The AfDB report suggests that it is possible to localize USD1.2 billion comprising an estimated 50% of the current annual procurement value chain over a three (3) year period.

#### Cost Benefit Analysis

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>	<b>Net benefits</b>
Do nothing	650,000	50,000,000	49,350,000
Measured	5,997,500	25,200,000,000	25,194,002,500
Comprehensive	5,997,500	84,000,000,000	83,994,002,500

#### *Section eight*

#### **Monitoring and Evaluation Implementation Plan**

##### Purpose of the Framework

Monitoring shall be carried out in order to track progress and performance as a basis for decision-making at various levels. Evaluation shall be carried out to establish the extent to which the SI will achieve the set objectives.

##### **Objectives of M&E**

Among the objectives to be achieved by the M&E include the following: -

- Promote learning and data driven decision making;
- Provide regular feedback on operational performance and show any need for 'mid-course' correction;
- Identify problems early and propose solutions; and
- Evaluate the outcome and impact of the legislation.

Strategic Objective	Activities	Output	Outcome	Performance Indicator	Responsible Institutions	Baseline(2020)	Grand Target	Annual Targets		
								2021	2022	2023
Promote local content in the mining value chain	<p>Prepare guidelines and formats for local content</p> <p>Dissemination of local content guidelines</p> <p>Monitoring and Audits</p>	<p>Guidelines and formats for local content developed</p> <p>Local Content guidelines disseminated</p> <p>Implementation of Local content monitored quarterly</p>	Increased participation of local businesses in the mining value chain	Number of local businesses participating in the mining value chain	<p>MMMD</p> <p>CHAMBER OF COMMERCE</p> <p>CHAMBER OF MINES</p> <p>MLSS</p> <p>MCTI</p> <p>ZAM</p>	(Request for baseline information from Dr. Lombe and the Association for mine suppliers and contractors)				
Develop local capacities in the mining industry value chain through education, skills transfer and expertise development, transfer of technology, research and development programmes	<p>Needs Assessment</p> <p>Training</p> <p>Monitoring</p>	Skills developed	Increased productivity	Number of Zambian contractors and suppliers trained	<p>MMMD</p> <p>CHAMBER OF COMMERCE</p> <p>CHAMBER OF MINES</p> <p>MCTI</p> <p>ZAM</p> <p>MINING INDUSTRY</p>	0 (Request for baseline information from Dr. Lombe and the Association for mine suppliers and contractors)				

					LEARNINNG INSTITUTIONS					
Attain 50% employment of Zambians in the mining industry value chain by 2026	Guidelines Training Monitoring and Evaluation	Guidelines and formats for local content developed  Local Content guidelines disseminated  Implementation of Local content monitored quarterly	Increased participation of local businesses in the mining value chain	Percentage increase in employment of Zambians in the mining industry	MMMD  CHAMBER OF COMMERCE  CHAMBER OF MINES  MLSS  MCTI  ZAM  Association of Mine Suppliers and Contractors					
Achieve a minimum in-country spend for the provision of goods and services in the mining industry value chain	Guidelines Training Monitoring and Evaluation	Guidelines and formats for local content developed  Local Content guidelines disseminated  Implementation of Local content monitored quarterly	Increased participation of local businesses in the mining value chain	Percentage increase		10%	30%	14%	22%	30

## APPENDIX 1: Stakeholder's Submissions

	Topic/Issue	Stakeholders Submission	Ministry's Action
1.	Governance	Broadening the membership of the local content Unit to include representatives from both private and public sectors	The committee provided for under the SI has considered the representation of both private and public sectors
		Decentralize the local content Unit membership and include representatives from local chambers of commerce and proposed towns include Solwezi, Kitwe and Chingola	The SI has considered decentralization of the local content membership
2.	Plans and Progress Reports	Submission of Local content plans by mining rights holders and mineral processing license holders every 2-3 years.	The SI has provided that the local content plans will be prepared every five years and an annual local content plan intended to be implemented and progress made in respect of each year.

		<p>Submission of local content progress on quarterly basis and not annually as proposed.</p> <p>All mining rights and mineral processing license holders to be legally obligated to establish a "local content department" to facilitate the aforesaid planning and reporting</p>	<p>This proposal is not supported as this would mean getting involved in the operations of the mining operations</p>
		<p>Full public disclosure of reported information. to the Zambia Extractive Industry Transparency initiative (ZEITI)</p> <p>Decision making to be ultimately determined by the local content board.</p>	<p>This proposal is supported and the SI has provided for decisions to be determined by the local content committee.</p>

3.	Supplier Development	<p>Mining sector is concerned about local capacity to meet demand both in terms of quantity and quality requirements. Mining sector is concerned about the availability of skills</p> <p>Facilitation of Joint Venture between foreign and local contractors to be included as part of the Technology transfer sub-plan. Mandatory joint ventures for core services for contracts over a certain monetary threshold should provide a minimum equity stake to citizen-owned companies</p>	<p>The SI has provided for supplier development programmes to include initiatives aimed at assisting citizen owned, citizen empowered and citizen influenced company with skills and technical assistance</p> <p>The SI has provided for facilitation of technology transfer with regard to the formation of joint ventures, partnering of licensing agreements between a citizen owned company or a Zambian citizen.</p>
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4.	Employment	Prioritization of local expertise in lieu of hiring expatriates and inclusion of technical training in the employment and training sub-plan	The SI provides for a recruitment plan for expatriates and employment and training plan of Zambians which shall include youth and gender representation
5.		An SME fund to be included as part of the Supplier Development Programme to be domiciled in the Zambian Commercial Bank e.g. ZANACO, Invest rust etc.	The committee will facilitate engagement with relevant stakeholders to support supplier development programme for the purposes of granting tax incentives
7.		Include provisions to cap payment periods for mine suppliers to 30 days to remedy tight short-term cash flows.	The Ministry will undertake further consultations on the issue
8.	Procurement	Inclusion of a reservation scheme for non-core services to provide greater opportunities for citizen-	The Ministry supported the submission

		owned, citizen-empowered, and citizen-influenced companies	
9.		Creation of a list of targeted core and non-core goods for local manufacture.	The Ministry supported the submission