



EXTRACTIVES HUB POLICY BRIEF FOR ZAMBIA

“Strengthening Local Content in Zambia’s Mining Sector”

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1. Executive Summary

The need to strengthen Local Content in Zambia has attracted several debates and consultations with various stakeholders in the Private Sector, Civil Society, Academia, Government institutions and international communities. The interests and concerns of stakeholders in the limited utilization of locally available primary resources, goods and services and employment of domestic labour in production processes and no exception of the mining sector. This Policy Brief uses the Africa Development Bank's definition of Local Content described as a framework aimed at optimizing the economic value derived from the development of natural resources through domestic linkages while giving regard to sustainability. This policy framework, therefore, views Local Content (LC) from the broader premise of entrenching local primary resources and locally manufactured goods and services, employment of locals and participation of local service providers in the mining processes.

Over the years attempts by the Zambia government to increase Local Content integration approaches in various sectors of the economy have prompted the development of various legislative Acts. Local Content has been embedded in various legislations, such as in the mining sector, the Zambia Mines and Minerals Act No.20 of 2015, provides for preferences to be for local mining products, contractors, services and employment. Other Acts promoting Local Content include the Zambia Public Procurement Act No. 14 of 2009, Citizens Economic Empowerment Act – No. 9 of 2006, Petroleum Exploration and Development Act No. 10 of 2008, The Zambia Privatization Act No.21 of 1992, Private Public Partnership Act No. 14 of 2009 and The Standards Act-Cap 416. There is also secondary legislation, such as the mineral development agreements and concessions.

To help guide the process, the National Local Content Strategy under the Ministry of Commerce, Trade and Industry has been put in place to directly or indirectly promote Local Content requirements. However, most of the sectors including the mining sector remain unchanged.

A few factors have been attributed to the failure of such Acts/legislations to promote meaningful Local Content. These factors include limited capacities, lack of guiding implementation matrices and none existence of sector specific policies to support them.

This Policy Brief therefore provides as a guide for structural and institutional improvement in the mining sector to strengthen Local Content. The guidance is framed within the context of the overall economic and social development objectives of the Zambia. The Policy streamlines startup measures that could be undertaken for Local Content implementation within the sector. Within this context, the main areas for this policy design are advanced as not just increasing levels of Local Content but its execution as well.

The policy framework sets four significant strategic objectives aimed at how Local Content could be enhanced and highlights supportive mechanisms for its enforcement as well. These are as follows:

- There is need for a sector specific measurement study that would investigate, verify and report on the full supply chain potential available for Zambia around the Mines. This measure should *inter alia* include mining operations materials and auxiliary services such as transport, banking, catering/hotel services, insurance, security, and schools;
- There is need for development of a business case which can be financed to own this process of strengthening Local Content;

- There is need for establishment of a model of reporting standards at two levels - Policy Level Reporting and Public Reporting; and
- There is need for establishment of a strategic unit/project/department within the Ministry of Mines that manages Local Content only.

2. Situation Analysis

Zambia's economic mainstay has been its mining industry. Zambia boasts of both underground and open cast mining operations with copper being the largest mineral. Other high value minerals include cobalt, manganese, uranium, silver, coal, lead, silver, zinc, gold and gemstones such as emeralds. The performance of the economy has closely followed the benefits of mining in form of revenues and formal employment. Mining accounts for Zambia GDP at 12% and is deemed one of the lead industries for continued economic growth (2017, World Bank).

Mining consumes an estimated US Dollars (USD) \$3 billion annually in input or import goods and services. While the earnings from mining have helped with growing the economy, this has not led to widespread elimination of poverty or of inequalities. Currently 60% of Zambia total population of 17 million people live below the poverty line (2017, World Bank).

Since privatization was introduced in early 1990s, Zambia has seen an increase in Foreign Direct Investment (FDI) inflows (2006, UNCTAD/ITE/IPC). The mining sector generally attracted more than half the FDI inflows during this period, because of large foreign mining companies that invested in mining and exploration of copper and other minerals such as cobalt. It was assumed then that FDI would produce numerous benefits including; employment creation, technology and skills transfer, increased government tax and non-tax revenue among other. Over the years however the benefits of FDI inflows have been limited particularly in instances where there were limited multiplier effects through forward and backward linkages, and market access for utility service providers. This has led to the domestic private sector development not being aligned with the new investments. There has not been sufficient incorporation of the domestic market through utilization of locally sourced products, or transfer of knowledge and skill to domestic firms and individuals.

In order to derive more benefits from mineral resources, governments worldwide are increasingly using Local Content policies (LCPs). The Local Content policies provide for extent of utilization of local inputs and/or products in production and provision of goods and services throughout the economy. Good examples include through value addition; strengthened local procurement system that could ultimately create business opportunities; generation of more indirect jobs along the supply chain; and through infrastructure developments and other supplementary services such as banking, insurance, schools, transportation and hospitals. This idea is supported by the Africa Mining Vision (AMV), that recommends that countries involved in mining should focus on multiple sector linkages because that is where more economic benefits could be derived. As of 2013, it was estimated at 90% of resource-rich countries (developed and developing alike) have some form of LCPs in place (Dobbs et al., 2013). Instruments used to implement LCPs vary significantly between countries.

Several attempts have been made to put in place a Local Content strategy framework and different pieces of legislations passed to drive Local Content in Zambia. For example, Zambia has a national Local Content strategy in place under the Ministry Commerce. This Strategy requires a minimum of 35% threshold across sectors including the Mining sector.

Pieces of legislations/Acts exist that aim at promoting Local Content. Specifically, this Policy focus - the mining sector - has the Mines and Minerals Act No.7 of 2015, section 20 that provides for the preferences for mining products, contractors, services and employment to be locally sourced. Other supportive legislations include the Zambia Public Procurement Act No. 14 of 2009 the Zambia Development Agency Act 2006 and the Citizens Economic Empowerment Act – No. 9 of 2006 among others. The Zambia economy has failed however to adequately promote the usage of local resources in the production processes despite a number of these legislations in place. This has mainly been exacerbated by the lack of a specific legislation on Local Content or sector specific policies for its enforcement.

3. Problem Statement - Current Status

Most mining activities in Zambia have not been adjusted to special conditions of an inclusive liberalized environment and the principles of Local Content are in general not adhered despite existence of multiple legislations intended to promote it. For example, the International Council on Mining and Metals (2014) reveal weak backward linkages from mining to manufacturing in Zambia. The study focuses on six Zambia mining firms and assess their contribution to Zambia's socioeconomic development. The findings highlight that, of about the USD \$1.8 billion annual expenditures on manufacturing related inputs going into the mining supply chain, only about USD \$100 million (about 6%) was directed to the local manufacturing industry.

In general, the transition to inclusion of local services and resources has been restrained by various challenges that include weak institutional governance, inadequate knowledge of the industry supply chain, absence of a sector specific policy and an institutional framework to facilitate implementation, coordination and collaboration between Government, line ministries, mining companies, other growth sectors and stakeholders. There are present and previous Local Content initiatives in Zambia. However, many studies review gaps that may have prevented in their successful implementation. Some examples of these major weaknesses are briefed below:

3.1 Legal Framework

A review of legislation on Local Content in Zambia generally and specifically related to the mining sector, reveals that, the Zambia Mines and Minerals Act No.7 of 2015, section 20, provides for the preferences for mining products, contractors, services and employment. There are also several non-mining policies and legislative frameworks that impact on it. These to mention a few include:

- Zambia Public Procurement Act No. 14 of 2009;
- Zambia Development Agency Act 2006;
- Citizens Economic Empowerment Act – No. 9 of 2006;
- Private Public Partnership Act No. 14 of 2009;
- The Standards Act-Cap 416; and
- Zambia privatization Act.

The multiplicity of these Legislations promoting Local Content has presented a challenge in ensuring that all mining companies exercise responsible and accountable behavior that protects the need to utilize locally available primary resources, goods and services in production processes. As LC legislative provisions are spread over a wide range of different sectoral legislations, they are difficult to coordinate

and has led to policy incoherence. A standalone LC legislation would pull together the most critical legislative provisions.

Probably one of the more supportive legislation in respect of Local Content is the Zambia Development Agency Act of 2006 (GRZ 2006) whose objective is to promote investment, in its different forms, so as to promote trade and economic growth and development through an efficient, effective and coordinated private sector. While this legislation promotes Local Content to a greater extent, it is argued that there is inadequate knowledge among various stakeholders on its provisions and equally inadequate information flow from the Agency. However, the Act makes it clear that regulating investment in a business enterprise should be multi-faceted. The Act, for example, does not contain provisions to restrict employment but cites the need to interface with the Department of Immigration which has sole responsibility to issue employment permits under the Immigration and Deportation Act of 2010 (GRZ 2010).

Equally, while the Zambia Mines and Minerals Act No.7 of 2015, provides for the preferences for mining products, contractors, services and employment in the sector, there is, however, lack of a sector specific Local Content Statutory Instrument (SI)/policy that provides for oversight or enforcement to ensure compliance with the provision of this Act.

Currently, in line with the Strategic paper of the promotion of Local Content, to enforce section 20 of the Mines and Minerals Development Act, the Ministry of Mines has embarked on development of a Statutory Instrument (SI). This process is in progress and to operationalize it, a lot of stakeholders' consultants will be conducted.

3.2 Institutional Framework Arrangement

The mining landscape under the current framework (different Acts) entails that there are various institutions and economic dispersions that play one or the other role in the mining sector that could hinder or promote Local Content.

Historically, whereas the nationalization era in the 1970s under the state-owned Zambian Consolidated Copper Mines (ZCCM) was associated with a significant Local Content goods supply sector, the introduction of privatization in the early 1990s is said to have decimated local suppliers and largely replaced them with overseas suppliers, many of whom have local representation.

The low skills capability of local producers is one of the principal causes of weak linkages between local and foreign enterprises, the other being the cost of finance. The mining sector, which has a great potential to become a major supplier outlet for new domestic industries has so far used only basic inputs supplied locally.

3.3 Transparency and Accountability in the operations of the Mining Companies

Although there are administrative procedures in place to allow for Local Content, these do not adequately address the need for compliance. Technical, financial, legal and regulatory systems are dealt with casually. Some countries, like Ghana, have opted for strict penalties for mining companies that do not meet Local Content requirements (UNECA, 2018). Policies to reach defined aims need to persuade the stakeholders, mainly the mining companies, government and citizens. To define accepted goals which would comprise accepted measures is the main challenge. Awareness-raising would play an important role.

4. Vision, Rationale and Guiding Principles

4.1 Vision

A strengthened Local Content implementation in the mining sector for greater benefits for citizens.

4.2 Rationale for the Policy

This sector-specific policy on Local Content for mining in Zambia forms the framework for increasing local inputs and products in production and provision of goods and services throughout mining activities. It is based on several options with the overall goal of strengthening Local Content in the mining sector. This is an ambitious goal considering there is a fragmentation of policies and Acts supporting Local Content. Further, there is an inadequate industrial base that is saddled with lack of inter-sectoral and inter-industry linkages, weak capacity by local contractors, weak institutional capacities to implement existing policies and limited knowledge of local procurement entities in the application of preferential procurement. Kragelund refers to the influence of multiple policies and legislations as contextual factors whose cohesion is necessary for successful Local Content initiatives (Kragelund 2016). He argues that without fixing the contextual factors, even a well-designed Local Content policy is bound to fail.

Given there is no a sector specific policy existing, this standalone sector Policy will not only work in combination with all existing Local Content policies/legislations in Zambia, but it will go further to set in motion the much-needed structured framework for cohesion of multiple Acts/legislations and guide the long-awaited implementation. It will compliment especially the sector specific Act - the Mines and Minerals Development Act - that contains few provisions in relation to Local Content and contains no details to support implementation such as, inter alia, setting up a strategic Unit to drive the process.

4.3 Guiding Principles

The Ministry of Mines and Mineral Development, mining companies and other stakeholders shall ensure responsible and accountable behavior is promoted that best drives the local resources and services utilization in line with Zambia's Vision 2030 and 7th National Development Plan while encouraging flexibility to accommodate fair competition during its implementation. In this regard all interventions and measures promoting Local Content should be responsive to the diverse needs of investors and while still aligned to the broader national objective of reducing inequality, poverty, employment creation and uplifting the living standards of the majority

This Policy Brief recognizes the dynamic nature of the mining environment and requirements of sufficient baseline information on what is actually pertaining in the sector all the time such as the full supply chain.

5. Objectives and Strategies

5.1 General Objective

To create an enabling environment for increased utilization of locally produced goods and services in the mining sector activities so that the sector generates adequate financial resources and ultimately contributes more to the GDP and reduction of poverty in Zambia

5.2 Specific Objective 1

To provide for Local Content policy implementation in the mining sector. Strategies:

- Review and harmonize existing Acts/legislations relating to Local Content in the mining sector; and
- Ensure that 35% of inputs in mining sector are locally procured.

5.3 Specific Objective 2

To promote research and development for increased productivity and competitiveness which is crucial to the development of Local Content in the sector. Strategies:

- Facilitate a sector specific measurement study that would investigate, verify and report on the full supply chain potential available for Zambia around the Mines. The measurement should include desk reviews of all similar previous studies on mining operations materials and auxiliary services such as transport, banking, catering/hotel services, insurance, security, and schools;
- Establish a data bank available for the public, and offering a description of the current situation as well as cases of successful inclusion if any; and
- Facilitate development of a business case which can be financed to own the process of strengthening Local Content in the ministry of mines.

5.4 Specific Objective 3

To promote transparency and accountability among mining companies, government and other stakeholders in the sector. Strategies:

- Facilitate the formulation of standards and guidelines of reporting by mining companies at two levels - Policy Level Reporting and Public Reporting; and
- Promote information sharing.

5.5 Specific Objective 4

To provide for the establishment of a Unit within the ministry of mines in order to manage operations and enforce Local Content principles. Strategies:

- Facilitate for establishment of a strategic unit/project/department within the Ministry of Mines that manages Local Content only; and
- Promote capacity building programmes to enhance capacity of the Unit also to coordinate and monitor Local Content implementation.

6. Implementation Framework

The Ministry of Mines and Minerals Development will be responsible for spearheading the implementation of the mining sector Local Content Policy. In implementing the Policy, the Ministry will employ a multisectoral approach. It will also require sound and effective institutional and legal framework coupled with a comprehensive monitoring and evaluation mechanism; and resources mobilization. The initial implementation will be over a period of five years 2020 – 2025.

6.1 Institutional Arrangement

The successful implementation of the mines Local Content Policy depends on Institutional arrangements with other government ministries such as Ministry of labor, Ministry of Commerce, Trade and Industry that shall have a primary responsibility of providing an enabling environment to attract investments for operations of both domestic and foreign business enterprises; and Ministry of Finance.

In addition, there is need to work closely with various private sectors including mining companies and small and medium enterprises.

The Ministry of Mines shall closely work also with existing statutory bodies namely: Zambia Extractives Transparency Initiative, Zambia Bureau of Standards (ZABS), Zambia Development Agency (ZDA), Competition and Consumer Protection Commission (CCPC), Citizens Economic Empowerment Commission (CEEC) among others in implementing the sector Policy.

The Ministry shall also work closely with Cooperating Partners to mobilize financial resources and develop technical capacities needed for the growth of the Local Content in the mining sector.

6.2 Legal Framework

This policy is framed within the context of the overall economic and social development objectives of Zambia. It guides, rather than control the direction of mining industry activities. To give effect to this Policy, legislation is required and the SI currently under development is central. Others include the Ministry of Mines and Minerals Act, Zambia Vision 2030, Zambia National Development Plan 15, Industrialization and Job Creation Strategy, Zambia Development Agency (ZDA) Act 2006, National Local Content Strategy under Ministry of Commerce, Investment, Trade and Enterprise Development Act of 2018 and the Public Private Partnerships Act 2009.

6.3 Monitoring and Evaluation Measures

The Ministry of Mines and Minerals will serve as the principal institution responsible for the monitoring and evaluation of the Local Content implementation in the mining industry. Through its newly established strategic Unit and in collaboration with line Ministries and various government Agencies, Cooperating Partners, Private Sector and other stakeholders, the Mines Ministry will monitor progress on the implementation of the Local Content. The monitoring reports will focus on:

- Technical performance of key objectives;
- Time performance;
- Cost performance; and
- Measures strengthening Policy implementation.

7. . Implementation Plan

The Implementation Logframe outlines the specific objectives and strategies, activities, indicators of achievement, time frame, estimated costs of implementation and partnering agents and institutions.

Specific Objective 1: To provide for Local Content policy implementation in the mining sector										
Strategy	Target	Activity	Timeframe (5Year)					Indicators	Budget ZMK	Partnering Agents/ institutions
			1	2	3	4	5			
Harmonize existing Acts/legislations relating to Local Content in the mining sector	Promote and enact Local Content law in mining sector	Review different pieces of relevant legislation; study 2-3 African countries examples						Sector specific law/statutory instrument; At least 6 consultative meetings both local and international	2 million	ZDA (Ministry of Commerce), Ministries of Finance and Labor
Ensure that 35% of inputs in growth sectors are locally procured	Develop value chain clusters	Facilitate development of value chain clusters within mining activities and needed materials						At least ten (15) value chain clusters developed	2 million	CEE, ZDA

Specific Objective 2: To promote research and development for increased productivity and competitiveness which is crucial to the development of LC in the sector										
Strategy	Target	Activity	Timeframe (5Year)					Indicators	Budget	Partnering Agents/ institutions
			1	2	3	4	5			
Facilitate a sector specific measurement study	Establish full supply chain potential available for Zambia around the Mines	Investigate, verify and report on the full supply chain potential available for Zambia around the Mines						Sector profile - full reports on mining operations materials and auxiliary services-transport, banking, catering/hotel insurance, security, etc.	2 million	
								Data bank available for the public describing situation as well as cases of successful inclusion of clusters	300 000	

Specific Objective 3: To promote transparency and accountability among mining companies, government and other stakeholders in the sector										
Strategy	Target	Activity	Timeframe (5Year)					Indicators	Budget	Partnering Agents/ institutions
			1	2	3	4	5			
Facilitate the formulation of standards and guidelines of reporting by mining companies	Two levels - Policy Reporting and Public Reporting	Develop reporting guidelines						Both Public and Private Sector institutions participate in reporting	2 million	Mining companies, ZEIT

Specific Objective 4: To provide for the establishment of a Unit within the ministry of mines in order to manage operations and enforce Local Content principles										
Strategy	Target	Activity	Timeframe (5Year)					Indicators	Budget	Partnering Agents/ institutions
			1	2	3	4	5			
Facilitate for establishment of a strategic unit/project/department within the Ministry of Mines that manages Local Content only	Unit established within the Ministry of Mines focusing	Office spaces both at national copperbelt province; Staff recruitments						Local Content Unit established; 20 staff are employed with different specializations (ICTs, Finance, Planning, Mining Business, M&E, Communication)	3 million	MMMD with Ministry of Finance, Financing partners
Promote capacity building programmes to enhance capacity of the Unit also to coordinate and monitor Local Content implementation	Key staff a conversant with Local Content international practices; annual implementation matrices are achieved	Identify and engage local suppliers; undertake targeted supply chains promotions;						At least 20 specialists trained; At least 15 supply chain clusters are implemented and sustained; annual implementation targets	6 Million	MMMD with Ministry of Finance, Financing partners

References

African Development Bank, *At the Centre of Africa's Transformation – Strategy for 2013 – 2022*, 2013.

World Bank, (2003a). *Zambia: The Challenges of Competitiveness and Diversification*. Report No. 25388-ZA, Washington DC.

Government of the Republic of Zambia, *Revised Sixth National Development Plan*, 2014.

Kragelund P, *The Copper boom and the development bust – institutional impediments to resource-led development in Zambia*, April 2016.

Government of the Republic of Zambia, *The Mines and Minerals Development Act 2015*, August 2015

Government of the Republic of Zambia, *National Industrial Policy (final draft)*, April 2016.

World Bank (2003b). *Zambia Post-Privatization Study*. Washington DC.

Zambia Privatization Agency, (2003). *Status Report*. Lusaka.

Government of the Republic of Zambia, *Vision 2030 – A prosperous middle-income Nation by 2030*, December 2006a.

Government of the Republic of Zambia, *The Zambia Development Agency Act*, 2006b

Government of the Republic of Zambia, *The Citizens Economic Empowerment Act*, 2006c

Investment Policy Review – Zambia, United Nations Conference on Trade and Development/ITE/IPC/2006/14