**REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS AND LABOUR FOR THE FIFTH SESSION OF THE TENTH NATIONAL ASSEMBLY, APPOINTED ON THURSDAY, 23 SEPTEMBER 2010**

**Consisting of**:
Mr C W Kakoma, MP (Chairperson); Ms E M Imbwae, MP; Dr P D Machungwa, MP; Mr D Matongo, MP; Mr G W Mpombo, MP; Mr W C Simuusa, MP; Mr F R Tembo, MP; and Mr J K Zulu, MP

The Honourable Mr Speaker
National Assembly of Zambia
Parliament Buildings
**LUSAKA**

Sir

Your Committee has the honour to present its Report for the Fifth Session of the Tenth National Assembly.

**Functions of the Committee**

2.0 The functions of your Committee are as follows:

a) to study, report and make recommendations to the Government through the House on the mandate, management and operations of Government ministries, departments and/or agencies under its portfolio;
b) to carry out detailed scrutiny of certain activities being undertaken by government ministries, departments and/or agencies under its portfolio and make appropriate recommendations to the House for ultimate consideration by the Government;
c) to make, if considered necessary, recommendations to the Government on the need to review certain policies and/or certain existing legislation; and
d) to consider any Bills that may be referred to it by the House.

**Meetings of the Committee**

3.0 Your Committee held thirteen meetings to consider submissions on the topic *Impact of the Extractive Industries on the Zambian Economy in the Post Privatisation Era – A Case of Mining* and the Action-Taken Report on the Second Report of the previous Committee for the Fourth Session of the Tenth National Assembly. Your Committee when considering the topical issue invited various stakeholders, as listed at Appendix I, to make submissions. Further, your Committee visited some mines, an ore processing company and two local authorities.

**Format of the Report**

4.0 Your Committee's Report is divided into two parts. Part I is on the topical issue and the tours. Part II highlights outstanding issues arising from the Action-Taken Report on the Report of the previous Committee for the Fourth Session of the Tenth National Assembly.

## PART I

## IMPACT OF THE EXTRACTIVE INDUSTRIES ON THE ZAMBIAN ECONOMY IN THE POST PRIVATISATION ERA – A CASE OF MINING

## INTRODUCTION

5.0 Your Committee, as part of its Programme of Work for the Fifth Session of the Tenth National Assembly, resolved to undertake a study on the impact of the extractive industries on the Zambian economy in the post privatisation era, particularly mining owing to the importance of the sector to the Country's economy.

The main areas of interest in mining were: benefits attributable to mining, taxation, transparency and accountability initiatives, labour matters and impact on the environment and road infrastructure. During its tours, your Committee also gathered information on main challenges that mining companies face in their operations in Zambia. Submissions from witnesses are summarised below.

## BENEFITS ATTRIBUTABLE TO MINING IN THE POST PRIVATISATION ERA

5.1 Witnesses submitted that major benefits attributable to mining in the post privatisation era were as set out below.

**Contribution to Tax Revenue**

5.1.1 Tax revenue was one of the primary benefits of mineral resource activities to a host nation. Tables 1 and 2 below shows the contribution of the mining sector to the Treasury in terms of tax between 2000 and 2009.

**Table 1: Mining Tax Revenue (in billion of Zambian Kwacha 2000-2009)**

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|---|---|---|---|---|---|---|---|---|---|---|
| Company Tax | 1.54 | 2.28 | 0.86 | 0.28 | 0.14 | 1.09 | 160.12 | 602.63 | 464.00 | 401.23 |
| Withholding Tax/Dividends | 0.08 | 0.00 | 0.00 | 0.50 | 1.66 | 2.73 | 0.00 | 0.00 | 0.00 | 0.00 |
| Mineral Royalty | 3.80 | 6.60 | 2.50 | 8.10 | 4.40 | 31.50 | 58.80 | 67.50 | 259.10 | 212.81 |
| Export Duty | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 178.10 | 0.00 |
| Windfall Tax | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 126.07 | 0.00 |
| Total Mining Tax | 5.42 | 8.88 | 3.36 | 8.88 | 6.20 | 35.32 | 218.92 | 670.13 | 1027.27 | 614.04 |
| Total Tax revenue | 1739.49 | 2448.60 | 2848.77 | 3549.48 | 4554.30 | 5521.80 | 6329.55 | 8193.80 | 9628.00 | 9660.10 |
| % share of mining tax in total tax | **0.31** | **0.36** | **0.12** | **0.25** | **0.14** | **0.64** | **3.46** | **8.18** | **10.67** | **6.36** |

Source: ZRA

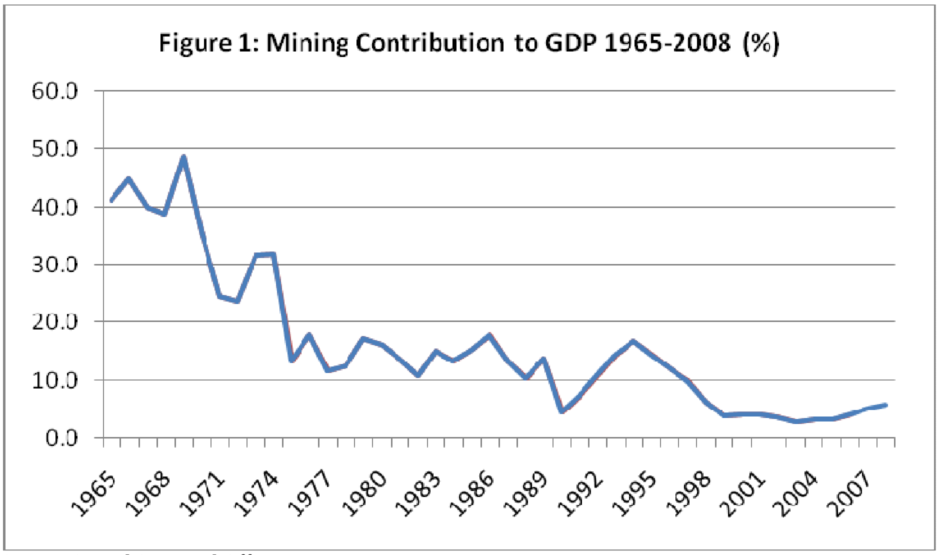
**Table 2: PAYE Contribution by Sector (K' billion)**

| | 2005 | 2006 | 2007 | 2008 | 2009 | Total | % |
|---|---|---|---|---|---|---|---|
| Agriculture, Forestry and Fishing | 58 | 52 | 52 | 50 | 61 | 273 | 2.4% |
| Community, Social and Personal Services | 240 | 308 | 377 | 412 | 506 | 1,843 | 16.3% |
| Construction | 89 | 110 | 125 | 160 | 117 | 601 | 5.3% |
| Electricity, Gas and Water | 147 | 98 | 1 | 26 | 43 | 356 | 3.1% |
| Financial Intermediaries and Insurance | 202 | 203 | 253 | 275 | 373 | 1,306 | 11.5% |
| Manufacturing | 114 | 130 | 138 | 156 | 195 | 734 | 6.5% |
| **Mining and Quarrying** | **364** | **465** | **625** | **738** | **770** | 2,963 | 26.2% |
| Real Estate and Business services | 228 | 235 | 237 | 258 | 309 | 1,267 | 11.2 |
| Restaurants, Bars and Hotels | 30 | 30 | 33 | 34 | 43 | 169 | 1.5% |
| Transport, Storage and Communications | 88 | 107 | 118 | 151 | 196 | 661 | 5.8% |
| Wholesale and Retail trade | 168 | 200 | 200 | 271 | 309 | 1,148 | 10.1% |
| **Total** | **1,729** | **1,939** | **2,199** | **2,531** | **2,924** | 11,322 | 100% |

Source: Ministry of Finance and National Planning

**Contribution to Gross Domestic Product**

5.1.2 Over the years, mining contribution to Gross Domestic Product (GDP) had moved in tandem with the economic prospects signalling the high dependence of the economy on the industry. Mining contribution to GDP fell from over 40% in the years immediately after independence to below 10% in the 2000s as shown in Figure 1 below.



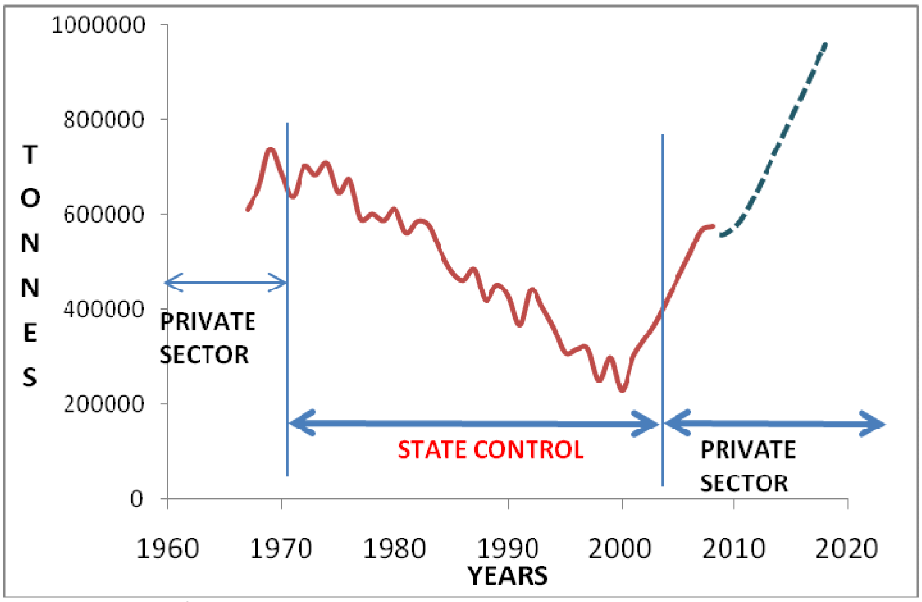

Source: Central Statistical Office

Despite the recovery of the mining sector and its high contribution to GDP growth rate in the recent years, its overall contribution to GDP remained small largely due to increased activities from other sectors such as construction and services. Since there was a desire to diversify the economy, it was expected that the mining sector would continue to contribute a smaller share compared to the period after independence. It was only through diversification that the economy would be insulated from the downward trends in mineral prices that often punctuated the mineral resource sector.

**Increased Metal Production**

5.1.3 Related to GDP was increased metal production from 257,000 tonnes of copper in 2000 to 656,000 tonnes in 2009. Figure 2 below shows production trends from 1960 to 2010 showing performance under State and private sector control.

**Figure 2: Copper Production – 2000-2010 ('000 tonnes)**




Source: Ministry of Mines and Minerals Development

In 2010, 740,000 tonnes of copper were produced.

**Contribution to Employment**

5.1.4 Mining contribution to employment over the years has been declining, largely due a decline in production. The contribution of mining employment to total national employment fell from 12% in 1990-1991 just prior to the privatisation process to 7.4% in 2000 when the process was completed. Thereafter, mining employment started to pick up. By 2009, mining contribution to total employment stood at 8.2% below the rate in the pre-privatisation era.

Even with the recovery of the mining sector, the level of employment was not expected to grow significantly because of the capital intensity of the sector. The sector was likely to become more and more capital intensive with increased investment. The Table 3 below shows the employment levels from 1990 to 2009.

**Table 3: Trends in Mining Employment 1990-2009**

| Year | Mining Employment | Percent of Total Formal Employment |
|---|---|---|
| 1990 | 64 700 | 11.9 |
| 1991 | 64 800 | 11.9 |
| 1992 | 62 100 | 11.4 |
| 1993 | 58 200 | 11.2 |
| 1994 | 51 200 | 10.3 |
| 1995 | 52 215 | 10.8 |
| 1996 | 47 700 | 9.9 |
| 1997 | 42 498 | 8.9 |
| 1998 | 39 160 | 8.4 |
| 1999 | 38 521 | 8.1 |
| 2000 | 35 042 | 7.4 |
| 2001 | 34 966 | 7.4 |
| 2002 | 37 245 | 8.7 |
| 2003 | 48 597 | 11.7 |
| 2004 | 46 078 | 11.1 |
| 2005 | 32 103 | 7.4 |
| 2006 | 32 611 | 6.9 |
| 2007 | 48 318 | 9.7 |
| 2008 | 47 910 | 8.8 |
| 2009 | 55 165 | 8.2 |

Source: Central Statistical Office

It has been reported that although investments have created some new jobs, there had been a collapse in the quality of employment, with around 45% of those working in the mines unable to access permanent and pensionable employment. It has been observed that since privatisation of the mines, the levels of casual labour have increased. The focus should, therefore, be on the quality of jobs rather than on quantity.

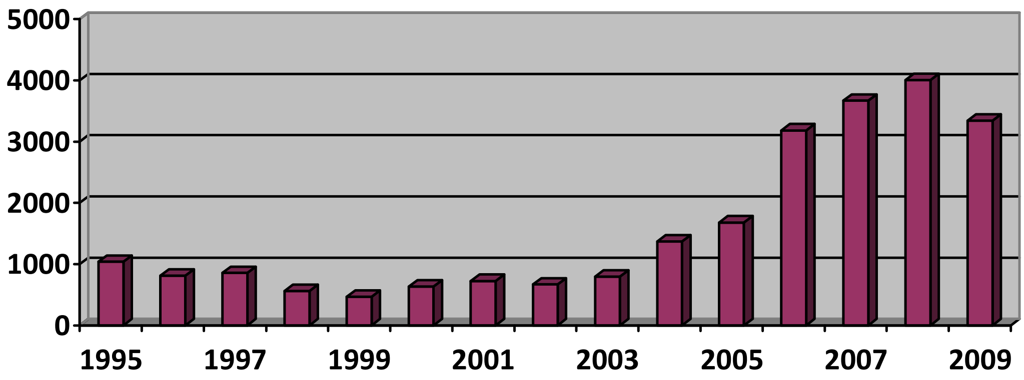
**Foreign Exchange Earnings**

5.1.5 In 2010, the mining sector's net supply of foreign exchange to the banking sector was US $905.5 million. With export earnings estimated at US $6,003.4 million, this net supply of foreign exchange to the market was 15.0% of metal earnings, a significant drop from 30% in 2008. Part of this drop in mining sector sales of foreign exchange to the local market reflected the completion of several key mining sector investment projects such as Lumwana and KCM, as well as the faster increase in mining revenues relative to expenditures. However, the drop in supply (as a percentage of earnings) also suggested that the Government was receiving less of the increase in revenue in terms of taxes. Despite the fall in foreign exchange sales to the market, the mining sector continued to be a major earner of foreign exchange and the largest net supplier of foreign exchange to the market.

Increased export earnings by the mining sector and subsequent sales of foreign exchange to the market has contributed to the relative stability in the local currency with increased benefits to the country's inflation developments.

Figure 3 below shows export earnings from 1995 to 2009.

**Figure 3: Export Earnings (US$)million)**




Source: Bank of Zambia

Given that the owners of the mines were not resident in Zambia and were not obliged to keep their earnings in the domestic banking system, what was repatriated to Zambia was less than what was earned.

**Foreign Direct Investment**

5.1.6 The mining sector had been the key destination for Foreign Direct Investment (FDI) in Zambia in the recent past. Overall, FDI flows into mining sector were estimated at US $624.0 million in 2009 and US $724.9 million in 2010, rising from US $277.0 million in 2005 as shown in Table 4 below.

**Table 4: FDI in Mining Sector (US $ million)**

| 2005 | 2006 | 2007 | 2008 | 2009 | *2010 |
|---|---|---|---|---|---|
| 277.0 | 565.5 | 781.6 | 867.6 | 624.0 | 724.9 |

*Preliminary
Source: Bank of Zambia

The bulk of this increase in FDIs reflected flows into the opening up and development of greenfield mines such as Lumwana, Munali Nickel, Mulyashi and Konkola Deep Mine as well as additional investment in existing mines.

Both FDI flows and external sector borrowing fell sharply between 2007 and 2009. This was attributed to the adverse effects of the recent global financial crisis and the sharp withdrawal of global liquidity that precipitated a reduction in FDI flows. However, whereas FDI flows appeared to have recovered in 2010, private sector borrowing continued to record a net outflow, albeit at a declining pace.

**Backward and Forward Linkages**

5.1.7 Contribution of mining activities to the local economy could also be viewed in terms of backward and forward linkages that were supposed to be created; backward linkages with local suppliers of mining inputs and forward links with local output markets that use mining outputs as inputs into their manufacturing or other value-adding production processes.

The country has struggled to form backward linkages to mining. The main suppliers to the mines appear to be largely limited to retail trade types of activity. Small scale Zambian suppliers took up small sub-contracts with the mines to source and supply a range of bulk inputs such as mine worker clothing (overall, boots, gloves, helmets, etc) and other accessories (torches, harnesses, drill bits, etc). These inputs mainly came from abroad, with very few local manufacturers able to match the price, quantity, quality, timeliness and reliability demanded by the mines. This in turn had to do with low levels and quality of human capital in the country. Zambia's skills in sciences and technology were simply unable to create a relevant manufacturing industry that was sufficiently competitive and reliable enough to meet the demands of the mining industry. In this regard, backward linkages with the mining sector have been weak.

Forward linkages were also weak. Zambia currently exports copper mainly as copper cathode, the standard form of the commodity as traded internationally. It uses only less than 5% of its copper output to fabricate wire rod, wire and low voltage cable, and a very limited quantity and range of other copper-based semi-manufactures. Many finished goods containing copper are largely imported.

For a long time, the country has thus sought to increase the extent of value addition related to copper towards increasing job creation, enhancing economic diversification and reducing import dependence. This overall worthwhile goal was largely based on the misconception that the availability of copper locally conferred competitive advantage in copper fabrication. The actual situation could be summarised as follows:

(i) internationally, there was no close relationship between the location of copper mining and refining and the location of its fabrication as the main copper fabricators were the major industrial countries, such as China, not copper exporting countries;

(ii) with the exception of wire rod, copper refining and copper fabricating industries are almost entirely separate, whilst many copper miners were involved in the refining of copper to cathode stage, few were involved in any process further downstream because the skills required and economics were quite different;

(iii) there was little cost advantage by having access to locally produced copper as it had been empirically illustrated that a fabricator based in Zambia was likely to have little cost advantage in buying copper over one based in China;

(iv) in the copper fabrication industry, proximity to market, reliability and cost of power, transport, cost of finance and availability of skills were likely to outweigh local availability of copper as a source of competitive advantage; and

(v) many copper products were made from copper alloys and of the metals required to make alloys, Zambia only produced nickel.

This situation was not unique to Zambia. The world's largest copper producer, Chile, has also not developed into a major world fabricator. Chile produces 34% of the world's copper, 17% of the world's refined copper but only 1% of the world's fabricated copper products. Chile has diversified out of copper mining by developing its horticulture, fisheries and tourism industries.

On the other hand, in Zambia, the down-stream processing of gemstones, industrial minerals and dimension stone were sub-sectors of substantial value-addition potential.

The Government 's position on value addition was that it has resolved to adopt the Multi-Facility Economic Zones (MFEZ) approach as a way of attracting industries that would utilise copper in manufacturing.

**Increased Municipal Property Rates**

5.1.8 Until the time of privatisation, Zambia Consolidated Copper Mines (ZCCM) Ltd was not paying owners' property rates on a number of mining assets. Since privatisation, mining companies started paying as shown in Table 5 below.

**Table 5: Property Rates paid by Mining Companies (K'Million)**

| | **2007** | **2008** | **2009** | **2010** |
|---|---|---|---|---|
| Property Rates | 55,058.40 | 55,914.60 | 58,062.90 | 48,240.00 |

Source: Chamber of Mines/Returns from Mining Companies

**Technology Transfer and Skills Development**

5.1.9 Mining technology and methods have advanced relative to the period when the mining sector was run by ZCCM, with many of the new mining companies employing state-of-the-art technologies and methods in their operations. One consequence of this was that operations are more capital intensive, with the industry able to achieve a greater output with less labour. For example, one old mine with about 21,000 workers produced 173,000 tonnes of copper in 2010 compared to 146,000 tonnes from a new mine with about 3,000 workers. Another consequence was that increased specialisation has led to a greater degree of mining operations contracted out to specialised companies. The advent of a modern mining sector in Zambia offered the opportunity for significant technology and skills transfer.

## ADEQUACY OF CURRENT TAX REGIME WITH RESPECT TO MINING

5.2 One of the biggest dilemmas facing the Zambian Government with regards to the mining tax regime was how to balance two competing interests, that was, the need for high returns and security of the mining companies on the one hand versus ensuring maximum social and economic benefits for the country on the other.

Over the last sixteen years, Zambia has formulated and implemented three mining tax regimes: (i) The Development Agreements, (ii) the 2008 mining tax regime and (iii) the post 2008 mining regime (current tax system).

**The Development Agreements Regime**

5.2.1 Development Agreements (DAs) were entered into between the State and foreign mining companies that took over mines previously operated by the former ZCCM through the privatisation process. At that time, the main objective of the Government was to encourage and promote investment in former ZCCM mining companies as well as Greenfield Investment in the sector. This was at a time when copper prices were too low to justify long-term investments in the sector without any change to the fiscal investment regime that obtained at that time.

The Development Agreements were used to provide a more conducive investment climate to attract the much needed investment in the mines, which at that time needed urgent recapitalisation. The objective was largely achieved. As copper prices increased on the international market, the Government legitimately decided to review the fiscal regimes in view of these favourable economic conditions. The Development Agreements were therefore revoked in 2008.

**The 2008 Mining Tax Regime**

5.2.2 The 2008 Mining Tax Regime was introduced in the 2008 Budget and was aimed at increasing the contribution of the mining sector to the Treasury and share in the benefits from the exogenous increases in the price of copper on the international market. One of the most important aspects of the 2008 mining regime was the introduction of the Windfall Tax, couched into two tax concepts and application, one based on mineral sales (Windfall Tax) and another based on profits (Variable Profit Tax). These were to be applied, your Committee was informed, alternately and not simultaneously. The 2008 Regime also separated the accounting for hedging income from income earned from mining activities.

**Current Tax Regime**

5.2.3 The current Tax Regime was introduced in 2009 after reviewing the 2008 Regime which admittedly imposed taxes at very high rates that did not make investment in the sector worthwhile. The revision took into account representations from mining companies and other stakeholders. Most of the provisions of the 2008 Mining Tax Regime were, however, maintained both in context and intent. For instance, the Windfall Tax Regime was maintained by retaining the Variable Profit Tax, which was imposed on profits. Income Tax rates were largely maintained at the 2008 levels as shown in Table 6 below.

**Table 6: Mining Tax Regimes in Zambia – Post Privatisation**

| | **Tax Regime** | | |
|---|---|---|---|
| **Income Tax Types** | **DA** | **2008** | **Current** |
| Company Income Tax | 25% | 30% | 30% |
| Variable Profit Tax | No | Yes | Yes |
| Withholding Profit Tax | No | Yes | No |
| Mineral Royalty | 0.6% | 3.0% | 3.0% |
| Mineral Royalty based on official prices | No | Yes | Yes |
| **Trade and Domestic Tax Types** | | | |
| Export duty on copper ore and concentrates | none | 15% | 15% but with significant waivers |
| Import duty, Excise duty on inputs | Yes | Yes | Yes |
| **Tax Exemptions** | | | |
| Loss carry-forward (years) | 15 to 20 | 10 | 10 |
| Capital Depreciation Allowance | 100% | 25% | 100% |

Source: ZRA

a) **Analysis of the Mining Tax Regimes**

Although the three tax regimes as outlined in the Table above may not be optimal, the current mining Tax Regime was much improved, balanced and a better taxation regime than the previous two regimes. However, improvements to the current Tax Regime, both in terms of subsidiary policies and administration, were expected to continue because the business environment was dynamic and economic circumstances changed from time to time. Below is an analysis of the three regimes.

(i) The terms of the Development Agreements Regime became too generous to mining firms when copper prices on the international markets increased significantly and the Government had to reposition its fiscal regime to benefit from these favourable developments. Copper prices rose from less than 200 cents per pound in 2005 to 394 cents per pound in April of 2008 and the trend has continued.

(ii) The 2008 Regime, on the other hand, swung very far the other way. It led to a comparatively high average effective tax rate and resulted in high tax burdens at high copper prices. In particular, it posed some challenges in implementation and ensuring equity across highly differentiated mining companies. According to the Government and mining companies, the widely debated Windfall Tax on income did not take into account the cost of production on the part of mines, which varied significantly across companies. The cost of producing a tonne of copper from an open pit mine was not the same as that of an underground mine, let alone mineralisation and recovery levels. Thus implementing a Windfall Tax on income fairly across mines with different cost structures proved to be a challenge.

(iii) The Current Regime, according to the Zambia Revenue Authority (ZRA), has a more effective tax rate that was between the two previous regimes and was generally more comparable with regimes elsewhere in the World.

From the simulations that the Ministry of Finance and National Planning had conducted, the Government has concluded that the current Tax Regime was more buoyant and equitable than that of 2008. It gave the Government a fair share of taxes in good times as well as in bad times while at the same time leaving the mining companies with a fair return. It further moved the country's effective tax rate from 31.2% prior to 2008 to about 46% and was within the average effective tax rates of other resource endowed countries such as Angola (52.7%), Mozambique (52.1%), Botswana (50.6%), Namibia (47.9%), Tanzania (45%), South Africa (42.9%) and Chile (42.6%). The Table 7 below shows mining tax regimes in other countries.

**Table 7: Comparative Mining Tax Regimes**

| **Fiscal Regime** | **Zambia** | **Chile** | **Canada** | **Botswana** | **Namibia** | **DRC** | **Ghana** |
|---|---|---|---|---|---|---|---|
| Corporate Tax | 30% | 17% | 19.5% | 25% | 37% | 30% | 25% |
| Variable Profit Tax | 0-15% | Nil | Nil | Nil | Nil | Nil | Nil |
| Mineral Royalty | 3% norm value 5% for gemstones | Maximum 5% of operational revenues profits | 10-18% on profit | 3% of sales value | 5% of market value | 2% of net sales | 3%-6% of total revenues |
| Carry forward losses | 10 years | Indefinite | Indefinite | Indefinite | Indefinite | 5 years | 5 years |
| VAT GST | 16% | 19% | 5-13% | 10% | 15% | 3-30% | 15% |

Source: Ministry of Mines and Minerals Development/Chamber of Mines

There were also arguments from other stakeholders that in a country like Zambia, tax revenues were by far the largest benefit from mining. Employment generation was quite small, the manufacturing base was not advanced enough to supply the mines with inputs, the benefits of increased technology were limited by the low level of industrial activity, and foreign exchange earnings were not as large as they seemed since the mines used about 40% of these earnings to fund their own imports. Furthermore, tax revenue today was of more value than tax revenue tomorrow because it could be invested in economic and social infrastructure, which would in time lead to increased revenue in the future.

The situation in Zambia was described as unique. Ordinarily, when an economy was performing well and growing, governments provide fewer incentives and aim at collecting more tax. If the economy was not growing, governments tended to provide more incentives as was the case during the recent global economic crisis. Zambia's economy was growing and the Government was still providing more incentives to the mining companies.

It was suggested that Zambia needed to handle the situation with a lot of courage and should not be afraid of losing investors. Other investors would come forward. For example, the Chinese took over some mines in Zambia that other investors had abandoned and were operating them successfully.

These stakeholders, therefore, concluded that the current tax regime did not maximise the benefits from the mining sector for the economy. Most witnesses further submitted that tax collection was also affected by the inability of ZRA to effectively audit the mining companies. As a way forward, it was suggested that a simpler tax based on volume would be much easier to administer.

There was another argument that Zambia needs to attract investors in the mining industry and sustain them. Zambia should make a choice between imposing high taxes on mining companies and foregoing additional investment. One major mining company submitted that if it was compelled to pay higher corporate taxes, it would shelve plans to sink a new shaft and extend the life of one of its mines.

Small scale miners submitted that the disparity between mineral royalty rate on industrial and base metals (3%) and on precious metals and gemstones (5%) needs to be removed.

There were further arguments that the most effective way of managing natural (exhaustible) resources was to ensure that their exploitation allowed for the transfer of these resources into financial wealth that benefits both current and future generations. Many countries have done this through the establishment of sovereign wealth funds. In Zambia, the Ministry of Finance and National Planning has also developed a draft framework for establishing and managing a mineral wealth fund, drawing upon the Norwegian experience.

**TRANSPARENCY AND ACCOUNTABILITY INITIATIVES IN MINING**

5.3 The mining sector regulation and taxation regime has been beset with policy reform and reversals due to a culture of secrecy around the way mine tax policy and law was formulated and implemented. Negotiations and tax revisions in the sector were conducted under a veil of secrecy often by politicians leading to unbalanced and unfair terms for the country. A good example was the recently negotiated fiscal stability clause that guaranteed specific tax provisions to be unchanged for the mines for the next ten years.

The Government of the Republic of Zambia officially launched the process of implementing the Extractive Industries Transparency Initiative (EITI) in July, 2008. EITI was a global standard for promoting transparency and accountability in countries rich in oil, gas, or mineral resources. The EITI sets a global standard for companies to publish what they pay in taxes and for governments to disclose what they received from companies as taxes or revenues. This is done through the mining companies, governments and civil society working together to develop a framework for the publication of tax payments and receipts from extractive industries. Ultimately the objective under this Initiative is to strengthen governance, enhance transparency and accountability in extractive industries, increase participation of civil society in key sector decisions and address the negative public perception of the industry and particularly foreign investors and Government.

Following the official launch of the EITI, Zambia attained candidacy status on 15th May, 2009. It was currently working on the First Reconciliation Report, which was expected to be published in the first quarter of 2011. The Report was a requirement under the EITI framework to enable Zambia go through a validation process and to attain the EITI 'Compliance Status' by May, 2011. With regard to the banking of the proceeds from mineral sales and remittance of profits, the Zambian Government abolished the Exchange Control Regulations and liberalised the country's Capital Account in 1995. This means that Zambia did not have controls on debt inflows and outflows, equity and FDI inflows or outflows. These reforms were undertaken to encourage investment inflows from outside the country as investors would be free to bring in capital or take it out anytime they wish without controls. What the country was interested in was to ensure that adequate institutional arrangements were put in place to ensure that whatever accrued to the Government in form of taxes were fully paid.

The challenge, therefore, was whether or not there was adequate institutional arrangements or capacity to ensure full disclosure by the mining companies so that the right taxes were paid to the Government. The EITI would also greatly contribute to Zambia's ability to get the correct share of the resources before the mining companies remitted their profits.

Some witnesses submitted that the initiatives governing mining operations were transparent and accountable in that there were various reports that were submitted to the various departments of the Government at every stage of mining operations such as the Bank of Zambia Report and audited financial statements.

To improve transparency and accountability in the gemstone sub-sector, the following needs to be implemented:

(i) creation of a one–stop–shop to facilitate the export of gemstones;
(ii) ZRA should employ trained gemmologists or knowledgeable people in gemstones at border ports or airports to verify the exports;
(iii) the auctioning of gemstones should be conducted in Zambia; and
(iv) a marketing centre for gemstones should be established in Zambia.

**LABOUR RELATIONS AND CONDITIONS OF SERVICE**

5.4 Your Committee was informed that Zambia has a number of laws that governed labour and employment relations. These include:

*(i) the Constitution of Zambia of 1991 (amended in 1996);*
*(ii) Employment Act, Cap 268;*
*(iii) Industrial and Labour Relations Act, Cap 269;*
*(iv) Employment Act (Special Provisions) Act, Cap 270;*
*(v) Employment of Young Persons and Children's Act, Cap 274;*
*(vi) Minimum Wages and Conditions of Employment Act, Cap 276;*
*(vii) National Pensions Scheme Authority Act, Number 40 of 1996;*
*(viii) Factories Act, Cap 441; and*
*(ix) Workers Compensation Act, Number 10 of 1999.*

**Social Dialogue, Wage and Conditions of Service Determination Mechanisms**

***(i) Collective Bargaining***
Under the Industrial and *Labour Relations Act*, workers' organisations have the right to organise for collective bargaining purposes. The law provides that a trade union has a right to enter into a recognition agreement with a registered employer (employing twenty-five or more eligible workers) and bargain collectively on behalf of the workers.

***(ii) Tripartite Consultation and Social Dialogue***
Tripartism was instituted under the Industrial and Labour Relations Act, Cap 269, which has established the Tripartite Consultation and Labour Council (TCLC). This Institution is intended to serve as the forum for dialogue on broad social and economic development issues. The creation of this body is critical to the liberalisation programme, as it allows for tripartite dialogue on the formulation and implementation of policies.

***Employment of Expatriates***
The labour movement supports the Government's decision of setting up of the Zambianisation Committee in the Ministry of Labour and Social Security. However, the Zambianisation Committee has done very little in addressing issues related to the employment of expatriates in the mining industry.

**IMPACT ON THE ENVIRONMENT AND MITIGATION MEASURES**

5.5 Mining operations by their nature have negative impacts on the environment. The impacts however, depend on the following factors:

(i) level of mining activities involved, that is, large scale or small-scale;
(ii) type of minerals being mined;
(iii) the mining methods involved;
(iv) technology being used in mining and mineral processing;
(v) the policy and regulatory regimes that exist in the country;
(vi) transparency and accountability regimes in place;
(vii) the capacity of the regulatory agencies and communities to enforce the law;
(viii) level of political interference in the enforcement arrangements; and
(ix) the judicial system in place to deal with environmental issues.

Based on experiences from the Copperbelt and Kabwe, the issues set out below are the major impacts on the environment:

**Water Pollution**

5.5.1 Mining operations produce a lot of waste-water and tailings, which are often released into streams, rivers and the general environment. Most metals are present in ores as oxides or sulphides and they needed to be reduced to their metallic form. The reduction is done through key processes such as floatation, smelting and electrolysis. The extraction of target minerals require also that they were soluble. Therefore, the mining and mineral processing operations use acid solutions to extract the target metals. This often results in the generation of acidic effluents. When released into the environment, the effluents cause significant changes in the water or soil Hydrogen Potential (pH) levels with a range of effects on aquatic organisms, vegetation and humans.

Smelting processes release Sulphur Dioxide gas which when combined with rain water turn into acid rain. The acid has the potential of contaminating soils, water bodies, corroding metal roofs and destroying plants.

**Air Pollution**

5.5.1 Sulphur Dioxide and Carbon Dioxide, nitrous fumes and particulate matter are some of the pollutants which are frequently released into the ambient air from mining and mineral processing operations.

**Deforestation**

5.5.2 Deforestation related to mining occurs when mining companies cut down trees and other vegetation to allow for better access to buried mineral resources. It also occurs from timber-demand for mining support systems and mineral processing operations, especially smelting.

**Tailings and Slag Dumps**

5.5.3 Tailings consist of ground rock and process effluents that are generated in a mine processing plant. Tailings are a waste product that comes out through the mechanical and chemical processes of mineral extraction. The process of product extraction is never 100% efficient, nor is it possible to reclaim all reusable and expanded processing reagents and chemicals. Often tailings have no financial gain to a mineral operator at that particular point in time. It is usually stored in the most cost effective way possible to meet regulations and site specific factors. Dams, embankments and other types of surface impoundments are by far the most common storage methods used today and remain of primary importance in tailings disposal.

The disposal of tailings is commonly identified as the single most important source of environmental impact for many mining operations.

Slag dumps also have an impact on the environment. Differences in environmental effects between tailings and slag dumps were explained by their differences in physical and chemical structures.

**Land and Soil Degradation**

5.5.4 Mining affects and destroy huge spaces of land by leaving behind holes and huge mined out pits. This form of impact is also highly pronounced in large scale open-pit mining for base metals and others, including gemstones. It is common in informal mining sectors.

Gullies and pits are often left unburied. In the rainy season, the same pits become flooded with water and ending up as mosquito breeding areas. Land pollution in large scale mining often relates to huge holes and pits that are left behind after being mined out. The large open pits often turn into small lakes if not filled up and taken to original status. This makes it difficult to re-use the land.

**Mitigation Measures in Place**

5.5.6 The Zambian law on environmental management require that, during and after the life of a mine, the responsible company mitigates and compensates, if necessary, for any damage caused as a result of its operation. There were two principal Acts which govern the operations and environmental management in the Zambia' mining industry: the *Mines and Mineral Development Act* (MMDA) of 2008 and the *Environmental Protection and Pollution Control Act* (EPPCA) of 1990 (now repealed and replaced by the *Environmental Management Act* of 2010). The EPPCA established the Environmental Council of Zambia (ECZ) (which has been renamed Zambia Environmental Management Agency) as the principal Institution charged with the responsibility of enforcing the environmental regulations in the Country. The MMDA establishes the Mines Safety Department (MSD) which is another Institution that has a specific mandate of regulating the environmental and safety issues in the extractive sector. The ECZ and MSD operate under a Memorandum of Understanding when it comes to enforcing environmental laws in the mining sector. The major area of their collaboration is in the approval of the mining licences and monitoring of environmental and safety performance of the mining companies stipulated in their (mining companies) Environmental Impact Statements (EIS).

Under the Environmental Impact Assessment (EIA) Regulations, existing mining companies are environmentally regulated according to what was outlined in their Environmental Management Plans (EMP). This also takes into account any expansion projects that the mining company would like to embark on. Equally, new mining companies are regulated at inception in terms of negative environmental impacts that the implementation of the project may bring about.

The Zambian law also provides for the Environmental Protection Fund (EPF) as a form of Government and community security. The EPF was a Fund that every mining company in Zambia was expected to contribute to as determined by its environmental liability status. The Fund assures the Government that in case a mine operator fails to clean up the pollution left by its operations, the Government could use the same funds to rehabilitate the area.

The historical environmental liability and obligations inherited from ZCCM were a responsibly of the Government and ZCCM-IH. In order to address the historical liabilities, the Government established the Copperbelt Environmental Programme (CEP) with support from the World Bank and Nordic Development Fund.

**Small-Scale Mining**

5.5.7 The main concern with small scale miners is the management of waste and effluent discharge which may cause pollution if not well managed. Air pollution due to dust emissions under dry weather conditions may arise from poorly managed gemstone mine waste dump sites.

Most small-scale mines did not have the financial and technical capacity to manage environmental issues like effluent, impact of vibrations from explosions, waste and toxic chemicals management which result in severe environmental damage which was spread over many small sites.

**IMPACT ON ROAD INFRASTRUCTURE**

5.6 Your Committee was informed as set out below.

**Abnormal Loads**

5.6.1 Mining operations are carried out by use of heavy and large equipment which is mostly imported into the country. Transportation of abnormal indivisible loads on the public roads is a challenge to the roads and bridges since they were not designed to carry such loadings. The roads and bridges, therefore, suffer damage earlier than expected unless measures are taken to avert early damage.

For this reason, Statutory Instrument No. 28 of 2007 was issued to provide guidelines on the conveyance of abnormal loads. Some salient features that in this Statutory Instrument are:

(i) that any person who intends to drive a vehicle or combination of vehicles exceeding the limits in terms of weight or dimensions (length 22m, width 2.6m, height 4.8m) needs to apply for a permit;

(ii) the permit was only issued after the surcharge for damage compensation is paid in accordance with the payment schedules as contained in the regulations;

(iii) the permit is not issued on any axle or axle configuration exceeding the legal limit set for the axle plus 15% weight. This has been done so as to protect the road infrastructure by ensuring that the vehicle configuration does not result in axle overloading;

(iv) for the abnormal loads weighing more than eighty tonnes, it is mandatory that a route survey was conducted by a recognised engineering consulting firm to ensure that all bridges and culverts on the route are able to carry the load; in a case where the capacity of a bridge would not allow the conveyance of such loads, the bridge would have to be re-strengthened before the load was allowed to proceed; and

(v) adequate escort vehicles have to be in place when the abnormal loads are being transported so as to guarantee the safety of all road users.

**Ordinary Commercial Vehicles**

5.6.2 There has been an increase in the number of commercial vehicles using public roads, mostly transporting copper for export. With more mines opening up in the country and Democratic Republic of Congo (DRC), the number will further increase as up to 90% of copper for export is transported by road as rail transport is not competitive. This has and will continue to put more pressure on the road infrastructure in terms of maintenance costs and more so the expensive rehabilitations once the road has reached the end of its design life.

The Road Development Agency (RDA)has, therefore, embarked on the replacement of most of the manual weighbridges with electronic weighbridges to improve the weighing efficiency and at the same time reduce the possibility of manipulating the weights by weighbridge operators. The construction of new weighbridges at different locations is ongoing. This is being done so that the road infrastructure is protected from greedy transporters who are only interested in profits rather than the public infrastructure.

**MATTERS ARISING FROM THE LOCAL TOUR**

5.7 Your Committee in order to acquaint itself with what is on the ground and also gather additional information, visited the following mining companies and local authorities:

a) Mopani Copper Mine in Mufulira;
b) Albidon Nickel Mine in Mazabuka;
c) Grizzly Emerald Mine in Lufwanyama (large scale);
d) Santas Emerald Mine in Lufwanyama (small scale);
e) Chibuluma Mine Plc in Lufwanyama;
f) Sable Zinc Kabwe Limited;
g) Mufulira District Council (In partnership with the National Democratic Institute); and
h) Kalulushi District Council.

**Brief Profiles of Mining Companies Visited**

5.7.1 Your Committee learnt the issues set out below from the mining companies visited.

***(1) Mopani Copper Mines PLC***

Mopani Copper Mines Plc has operations in Kitwe and Mufulira. The total capital investment of the Company between 2000 and 2010 was about US$1.26 billion. Annual production between 2002 and 2010 was not less than 100,000 tonnes of finished copper cathodes.

At its peak in 2008, Mopani had about 10,000 full-time employees with an additional 10,000 contractor's workers. The combined figure of full time and contracted workers, however, dropped to less than 15,000 by March 2009 due to the effects of the global economic crisis.

***(2) Albidon Munali Nickel Mine***

Exploration works were first carried out by Anglo-American Corporation during the 1960s. Between 1970 and 1990, other companies such as Apollo and Muchison carried out further exploration works. Detailed exploration works and pre-feasibility studies were undertaken by Albidon Zambia Limited between 2002 and 2005. The Bankable Feasibility study (BFS) was completed in September 2007 followed by the signing of the Development Agreement with the Government of the Republic of Zambia. The first delivery of nickel concentrate was in July 2008.

The Mine was unfortunately placed under care and maintenance in March 2009 following the collapse of the nickel prices on the international market. The mine was re-opened nine months later in December 2009 to begin underground operations by Jinchuan Group Limited (JNMC) of China. Exports commenced in April 2010.

***Production, Marketing and Sales***

The mine had a Run of Mine (ROM) annual production capacity of 900, 000 tonnes. In the first quarter of 2011, production was 18% above target. Your Committee was informed that the level of production had no significant effect on the life of the mine.

All concentrate produced by the mine was sold to the parent company at the prevailing London Metal Exchange (LME) price.

***Tour of the Mine***

On the day of the visit, unionised workers at the Mine had downed tools in protest against non implementation of the agreed, but yet to be signed, Collective Agreement.

Your Committee was taken on a conducted surface tour of the sleeping quarters of some workers, ore crushing plant, milling plant, floatation plant and filtration plant.

***(3) Sable Zinc Kabwe Limited***

Sable Zinc Kabwe (SZK) Limited was an ore processing company. At the time of the visit, the Company was a member of the Metorex Group Company of South Africa. Vale SA had offered to purchase the Metorex Group for US$1 billion but was, however, not interested in the Kabwe operation. If the offer was accepted, SZK would be sold off separately.

The principal activities of SZK were treatment of copper and cobalt concentrates. The annual production capacity of the company was as follows:

(i) 10,000 tonnes of LME A-grade copper cathodes;
(ii) 1,000 tonnes of cobalt in carbonate; and

(iii) 33,000 tonnes Sulphuric Acid.

All products of the Company were sold to Standard Bank of South Africa, Metal Division.

SZK had a total of 143 employees comprising 7 managers, 102 unionised workers and 34 casuals.

***Tour of the Plant***

Your Committee was taken on a conducted tour of the filtration plant, solvent extracting plant, acid plant and tank house.

***(4) Chibuluma Mine Plc***

Chibuluma Mine Plc was a member of the Metorex Group which, at the time of the visit, was subject of a takeover bid by Vale SA. It was incorporated in 1997 and was the first mine to be privatised. Metorex owned 85% of the shares and ZCCM – IH 15%.

The mine has an annual production capacity of 18,000 tonnes (2% of the industry output) of copper concentrate at 47% grade which was all sold locally.

The total invested in the mine to date was US$124 million. The South Mine where the Company was currently carrying out its operations was fully mechanised.

The mine has 621 permanent employees, 166 contractor workers and 56 casuals.

***Tour of the Mine***

Your Committee was taken a brief surface tour of the mine mainly the ore crushing facility.

***(5) Grizzly Mining Limited***

Grizzly Mining was incorporated in 1997 and started operations in 1998. It had 420 employees of whom 80% were from the surrounding community. It was owned by Canadians and Senegalese.

The Company in 2010 produced 35,000 kg of emeralds. The major markets for its products were the Middle East, UK, USA and Asia. Its total revenue per annum ranged from $6million to $11 million.

***Tour of the Mine***

Your Committee was taken on a conducted tour of an exploration site, mining pit, recovery or washing plant and the security control room.

***(6) Santas Mining Limited***

Santas Mining Limited was owned by a Zambian and two foreign nationals resident in Zambia. The Company has been carrying out mining activities on three pits namely Chiluba, Kaunda, and Mwanawasa. Your Committee visited the Chiluba and Mwanawasa pits which, at the time of the visit, were flooded as a result of the rains. The mine has to date produced about 50kg of gemstones. Further production would commence after the water subsided in the pits.

The findings of your Committee from the tours are summarised below.

**(a) Benefits from Mining**

The following were reported as the main benefits from mining:

(i) increased metal production;
(ii) increased investment;
(iii) employment creation;
(iv) contribution to the Government Treasury. Only Chibuluma Mine and Sable Zinc Kabwe had to date paid Company Tax. Others reported that they were still loss making. They, however, all pay PAYE, VAT, Mineral Royalty and Customs duties;
(v) increased payments of property rates to councils, however, one of the councils visited complained over heavy central government interference in the collection of property rates resulting in it having to grant huge rebates to mining companies. Collections were, therefore, less than what was potentially collectable;
(vi) through Corporate Social Responsibility mining companies provided support to health institutions and other health programmes such as HIV/AIDS and Anti-Malaria residual spraying, schools, sporting clubs and local authorities. There were complaints that mines were holding onto huge tracts of land that they do not use. In Mufulira, residents complained of their inability to engage in farming because a good portion of the land suitable for farming was owned by Mopani Copper Mines; and
(vii) increased business opportunities to residents mainly as suppliers, however, there were also complaints that there was favouritism in the selection of suppliers.

**(b) Labour Matters**

The following were noted on labour issues:

(i) workers complained of poor working conditions, no salary structure, intimidation, lack of training programmes, lack of research and an increase in the number of foreign workers;
(ii) some mines had comprehensive training and occupational health policies for staff;
(iii) the lowest paid worker on average was paid about K1million;
(iv) all workers were on contract for periods ranging from one to four years, and not all workers were entitled to gratuity; and
(v) Mopani Copper Mines reported having reduced the disparity in remuneration between expatriates and local staff to 10%.

**(c) Environmental Matters**

The following issues were noted with respect to environmental management:

(i) all mines visited operated closed systems in that all waste is contained within the perimeter of their operations, however, only Grizzly Mine was found to be in Category 1 for good environmental management practices;
(ii) Mopani Copper Mines reported having reduced Sulphur Dioxide emission by 50% to 55% in Mufulira and would further reduce it by 97% by 2015 and the residents

confirmed the reduction but there was an appeal to relocate Kankoyo residents because of the damage that was being caused to houses and sewer systems as a result of underground activities;

(iii) there were appeals from residents of Mufulira to the Government urging it to make a decision on slag dumps;

(iv) local authorities reported that they were normally disregarded by mining companies preferring to deal directly with the ECZ and Ministry of Mines and Minerals Development; and

(v) concerns were raised on the inability of the ECZ to take action on mines that contravene Environmental Regulations.

**(d) Challenges Faced**

Mining companies reported the following as challenges they faced in their operations:

(i) high cost of doing business in Zambia; one mine reported that in the first quarter of 2011, the cost of producing one tonne of copper was US$4,568;

(ii) low grade of products particularly nickel;

(iii) low cash flows;

(iv) price volatility of metals on the international market;

(v) poor quality of current college and university graduates;

(vi) shortage of skilled artisans on the labour market;

(vii) poor infrastructure particularly roads;

(viii) having to continuously counter the perception that mining companies are responsible for roads, schools and hospitals and not the Government;

(ix) the Government sometimes does not engage in dialogue with mining companies when coming up with policies or laws; for example, mining companies were not consulted on the Windfall Tax hence their apprehension. The mining companies pointed out that they were not against the Windfall Tax but its implementation; and

(x) misunderstandings on the payment of ground rate and area surface charges.

Gemstone miners reported that the main challenges they face were:

(i) lack of capital;

(ii) lack of exploration and excavation equipment; and

(iii) poor marketing.

**COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

5.8 Your Committee, after considering submissions from stakeholders and undertaking its local tour, observes that the mining industry in Zambia is highly imbalanced. There exists a fairly developed large-scale mining system for industrial and base metals dominated by copper and cobalt, on one side and an underdeveloped gemstone, precious metals and small scale mining system on the other.

Large-scale mines contribute significantly, on comparative terms, to GDP, Government treasury, foreign exchange earnings, employment and environmental degradation. However, it is more vulnerable to fluctuations in the prices of metals on the international market as was experienced at the height of the world economic crisis in 2008. It is also dominated by foreign multinational companies with ZCCM-IH only controlling between 10 to 20% of it. The Government of the Republic of Zambia holds 87.6% of the shares in ZCCM-IH.

Gemstone mining is about 90% dominated by small-scale Zambian miners. This sub-sector is underdeveloped and is not closely monitored leading to a situation where objective determination of how much wealth is generated is a challenge.

Based on the above, your Committee further observes that the development agenda of the mining sector is mainly dictated by what goes on in large scale-mining.

On the specific areas, your Committee observes and recommends as set out below.

A. **Benefits (Excluding Tax) Attributed to Mining**

Your Committee makes the observations as set out below.

i) The major benefit of mining to Zambia is the contribution to foreign exchange earnings. Since Zambia is dependent on the exports of copper, a significant drop in prices on the international market has a cascading negative effect on almost all sectors of the economy. The diversification programmes either within the mining sector (i.e. lessening dependence on copper) or the general economy (i.e. lessening dependence on mining) are not progressing at a desirable rate, therefore, copper will remain the mainstay of the Zambian economy for some time.

ii) There has been massive investment in large-scale mining resulting in a huge increase in production, particularly in copper. In 2010, copper production was about 740,000 tonnes, a level that was last attained about forty years ago. However, the mining sector's contribution to GDP is low, about 10%, which is unacceptable for an economy that is driven by mining.

iii) The boom in the mining industry has brought about a general increase in the level of economic activity both on the Copperbelt and North-Western Provinces. There is a remarkable difference from the situation that existed before privatisation of the mines.

iv) Local authorities are realising some revenue from the mines in terms of property rates. Between 2007 and 2010, mining companies paid K217.2 billion in rates. The collections are comparatively lower considering the rebates that are offered to mining companies. Non-implementation of the Mineral Royalty sharing mechanism as provided for in the *Mines and Minerals Act* of 2008 is another source of concern.

v) Through Corporate Social Responsibility, local communities are benefitting by way of education, health and other forms of donations from the mines.

vi) The Government has gone out of its way to accommodate interests of investors in the mining industry. Though this was necessary at the time of privatisation, the current situation is not that desperate.

vii) There are some mines which are making meaningful contributions, in terms of their Corporate Social Responsibility and payment of all forms of taxes. Although some gemstone mines are, through Corporate Social Responsibility, contributing to the community in their operational areas, the amounts that are paid as mineral royalty are negligible. The genuineness of disclosed production and sales figures is questionable because the mechanism of monitoring production and sales is ineffective and inadequate.

Your Committee recommends as set out below.

(a) Zambia being a major copper producing country stands to benefit immensely by investing in value addition enterprises. Considering the high cost of capital and limited internal market to utilise huge quantities of copper in Zambia, the Government is urged to explore ways of encouraging Zambian entrepreneurs to set up such companies in partnership with investors from emerging economies such as China, India and Brazil where there is a large market.

The Government is advised further to partner with the private sector and establish a strategic metal trading company and exploit the combined mineral wealth in Zambia and the region.

(b) The Ministry of Mines and Minerals Development is urged to ensure that clearly defined social and economic benchmarks form part of the conditions for granting mining licenses to secure benefits for the local communities.

(c) Considering the low shareholding of ZCCM-IH in the current operating mines, the Government, through ZCCM-IH, is urged to increase its shareholding in the mines. ZCCM-IH should partner further with other investors and venture into mineral exploration works and other Greenfield mining projects. This will be more economically sustainable for the country considering its dependence on mining.

(d) The Ministry of Finance and National Planning is strongly advised to implement Section 136 (Mineral Royalty Sharing Mechanism) of the *Mines and Minerals Act* of 2008. There is need for the local communities to feel the benefit of having a resource in their areas and lessen their apprehension towards foreign investors.

(e) The Ministries of Mines and Minerals Development and Local Government and Housing should not interfere with local authorities in the collection of rates from mining companies. In addition, the Ministries should assist local authorities to claim back land that mining companies have no use for.

B. **Adequacy of Mining Taxation**

Your Committee makes the observations set out below.

(i) Despite the increase in copper production after privatisation, mining taxes as a percentage of GDP is very low, less than 2%.

(ii) There are no major problems with VAT, Mineral Royalty (other than on the sharing mechanism), Customs and Excise duties, and PAYE. The problem is on Corporate Tax and Variable Profit Tax/Windfall Tax, particularly in as far as it relates to profitability in view of high copper prices.

(iii) The capacity of ZRA, with respect to mining, to collect optimum taxes under the current tax regime is weak. Your Committee, however, notes the effort of the Government and cooperating partners in conducting further audits of mining companies. It is hoped that after the audit exercises, the average cost of producing a tonne of copper will be determined.

(iv) Mining companies are tactfully extending the period of not paying taxes by introducing new investment projects which qualify for capital allowances.

(v) There is a likelihood that the Government is losing revenue through metals contained in concentrates that are being exported.

Your Committee recommends as set out below.

(a) Considering the lack of capacity at the ZRA with respect to mining taxation and general desire to have an effective and efficient tax system, Zambia needs a simplified and predictable tax system for mining companies. Since minerals are exhaustible resources, the Ministry of Finance and National Planning is strongly advised to devise a modified tax for the mines, which will incorporate features of Mineral Royalty, Company Income Tax and Variable Profit or Windfall Tax. Your Committee notes that one of the major mining companies admitted that they were not opposed to the Windfall Tax but were apprehensive of the mode of application, therefore, thorough consultations should result in an agreed modified tax.

(b) In order to improve the monitoring of the mining industry and also for purposes of building capacity, a dedicated Mines Unit should be established under ZRA. Officers from relevant ministries and departments should be part of the Unit.

(c) Taking into account the fact that some parent companies buy all the mining products from their subsidiaries at the gate, ZRA is urged to ensure that the purchases are based on LME prices. In the case of concentrates, monitoring of metals contained should be enhanced.

(d) In order to increase revenue collection from mining operations in the medium term, the Ministry of Finance and National Planning is urged to consider the following:

   (i) treating current mining operations separately from new mining projects for tax purposes;
   (ii) reducing capital allowance from 100% to 25%;
   (iii) reducing the period for carry forward losses from ten to five years; and
   (iv) reducing the tax stability period from ten to five years.

C. **Labour Matters in the Mining Sector**

Your Committee observes that although there has been an increase in investments in the mining sector after privatisation, there has not been a corresponding major increase in the number of employees. This is attributed to the capital intensiveness and technological advancement in the sector.

It observes further that the quality of jobs has gone down. There are also cases of mines employing more unskilled or semi skilled foreign workers, unfavourable contract conditions, lack of skills transfer and other forms of training, intimidation and lack of respect of labour laws. Poor Conditions of Service are the other major problem for those working for contractors in addition to some having no union representation.

Your Committee, therefore, recommends as set down below.

(a) The Ministry of Labour and Social Security is urged to be more responsive to the challenges that workers are facing in the mining industry. This will be achieved by:

   (i) improved funding and support to the Ministry; and
   (ii) reviewing relevant labour laws and, among other things, introduce a minimum requirement that every worker engaged for a period of twelve months or more

must be on contract and should be paid a gratuity upon the expiry of the agreed period.

(b) The Ministry of Labour and Social Security is urged to ensure that the Tripartite Consultative Labour Council and Zambianisation Committee become more proactive in addressing the numerous labour matters affecting the mining industry.

(c) The Ministry of Labour and Social Security is advised to build capacity of its District Labour Officers so that they can closely monitor labour related matters in mining companies. The Ministry should further impress upon union mother bodies to be providing the necessary support to their local branches in the respective mines.

(d) The Ministry of Mines and Minerals Development is urged to immediately engage the Ministry of Education, Ministry of Science, Technology and Vocational Training and mining companies and address the shortage of artisanal skills relevant to mining. This should include re-introduction of apprenticeship programmes and revision of the curricula.

D. **Transparency and Accountability Initiatives in Mining**

Your Committee observes that although Development Agreements were invalidated following the enactment of the *Mines and Minerals Act* of 2008, transparency and accountability in mining is still unsatisfactory. The recent fiscal agreements with mines are not open to public scrutiny. The situation is even more challenging in the gemstones sub-sector. Your Committee, however, notes progress that has been made under the Extractive Industries Transparency Initiative (EITI).

Your Committee recommends as follows:

(a) while welcoming the implementation of the EITI, the Government is urged to ensure that all companies in the extractive industries subscribe to the Initiative;

(b) the Government is urged to devise a clear and transparent criterion for awarding concessions and tax incentives to investors in the mining industry. This should include consulting other relevant stakeholders; and

(c) the Government is further urged to make public all agreements between the Government and mining companies.

E. **Environmental Matters in Mining**

Your Committee observes that the establishment of the Environmental Protection Fund (EPF) has provided a solution to what happens when a mine closes down. The challenge still remains during the period when a mine is in production. Your Committee notes that despite the existence of several pieces of legislation, such as, the *Environmental Protection and Pollution Control Act* (which has been repealed and replaced by the *Environmental Management Act* of 2010) and the *Mines and Minerals Act* of 2008, adequate enforcement is lacking.

It was observed by your Committee that local authorities are not recognised as agents of the ECZ.

Your Committee observes, from its visit to Kankoyo Township, that it is not only heavily affected by Sulphur Dioxide pollution, but also underground activities which are weakening housing structures and destroying the sewer systems.

Your Committee, therefore, urges the Ministry of Mines and Minerals Development working together with the ECZ (renamed Zambia Environmental Management Agency) to:

(a) boost the confidence levels of local authorities being agents on environmental matters, by ensuring that before any major decision is made, recommendations from local authorities are considered first, and the local authorities should be fully involved in the enforcement of environmental laws as they are closer to the areas where offences are committed; and

(b) facilitate the relocation of residents of Kankoyo Township to an appropriate site.

F. **Impact of Mining on the Road Infrastructure**

Considering that up to about 90% of copper is transported by road, the increase in production of copper and other minerals such as manganese, nickel and coal will have a negative impact on the road infrastructure. This will be worsened by the fact that Zambia is a major transit route for DRC and Malawi cargo.

Since mining companies prefer road transport in moving mining products and heavy equipment to the railways, your Committee strongly advises the Government to immediately implement or if these are not in place, develop measures that will:

(a) promote Public-Private Partnerships (PPP) in the development of road infrastructure;
(b) revamp the railway transportation system and improve security of goods in transit;
(c) ensure that mining companies to bear part of the burden of road maintenance; and
(d) stiffen penalties for abnormal loads.

G. **Gemstones Mining Sub-sector**

Your Committee observes that the Gemstone sub-sector remains an untapped potential. Despite the existence of a few large scale mines, the contribution of this sector to GDP and the Treasury is very low.

Your Committee further observes that although there have been some programmes to develop the sub-sector under the sponsorship of the World Bank (SEED) and the European Union (Mining Sector Diversification Programme), these have not yielded the desired results. The major problems facing the sub sector are:

(i) lack of finances;
(ii) lack of artisanal skills;
(iii) lack of machinery to carry out exploration and excavation works; and
(iv) poor marketing.

Your Committee, therefore, urges the Ministry of Mines and Minerals Development and Ministry of Commerce, Trade and Industry to look into the following:

(a) establishing of an equipment hire scheme which should include exploration equipment such as core-drilling machines;

(b) promoting joint-ventures between Zambian small-scale miners and foreign investors who may have access to cheaper investment funds;

(c) assisting in the establishment of a loan guarantee scheme within the frame work of the Citizens Economic Empowerment Programme;

(d) assisting in the establishment of a private sector operated gemstone auction;

(e) creating linkages between small and large scale miners for purposes of production, polishing and marketing; and

(f) promoting value-addition to the gemstones before being exported; the Ministry of Mines and Minerals Development and the ZRA should, therefore, enhance the monitoring of production and sales levels of gemstone mines for tax purposes; the Ministry of Mines and Minerals Development and Ministry of Home Affairs should further enhance security in mining areas to curb smuggling of gemstones.

## PART II

## CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE SECOND REPORT FOR THE FOURTH SESSION OF THE TENTH NATIONAL ASSEMBLY

### A. Consideration of the Pension System in Zambia

***Para 5.3, Pages 5-7***

6.0 Your previous Committee was dismayed that, despite the reforms to improve operations of pensions, the sector continued to face several challenges. Your Committee was aware that the reforms envisaged a three tier system with the first pillar providing a basic compulsory scheme. The National Pension Scheme Authority (NAPSA) was designed to be a basic mandatory scheme assuring workers of a decent pension regardless of the fluctuations in the performance of the economy.

In addition, the reforms envisaged the second tier scheme to supplement the mandatory pension scheme. This included the Public Service Pension Fund (PSPF) and Local Authority Superannuation Fund (LASF). It also included several private occupational schemes provided by employers.

Your Committee was aware that the reforms envisaged the operationalisation of the third tier to provide for individual and personal savings. Your Committee, however, was concerned that despite all these well set out plans the reforms were still facing daunting challenges. Therefore, the Committee observed and recommended as set out below.

*a)* ***Exemption of Certain Institutions from Contributing to National Pension Scheme Authority (NAPSA)***

6.1 Your previous Committee observed that Konkola Copper Mines and Mopani Copper Mines were excluded from contributing to the National Pension Scheme Authority (NAPSA). There were also other members of the defence and civil service who contributed to the PSPF and LASF, but did not contribute to NAPSA. Your Committee recommended that all institutions should be compelled to contribute to NAPSA since it was a basic mandatory scheme. Your Committee stated that workers could not only depend on occupational schemes because they were supplementary schemes.

**Executive's Response**
The Government submitted that it appreciated your Committee's recommendation on compelling all institutions to contribute to NAPSA as the basic mandatory scheme, including the members of Defence Forces who were currently exempted by the *National Pension Scheme Act* No. 40 of 1996.

The Government was aware that the 1996 pension reforms, which closed the PSPF and LASF to new entrants and established NAPSA as a basic pension scheme, failed to take into account the serious financial implications of implementing the policy direction.

Subsequent analysis indicated that the unfunded liability of the PSPF and LASF was too huge and could not be transferred to the new NAPSA scheme as it would lead to an immediate deficit. This, therefore, meant that the Government undertook to finance the difference between pension revenues and pension expenditures under the PSPF and LASF until the last pensioner dies. It was clear that this was causing unsustainable budgetary and Treasury pressure on the Government. More than K1.5 trillion needed to be budgeted for to clear pension benefits for public servants as long as the scheme remains closed.

Further, the Government wished to advise that the civil and military pension schemes were, by their very nature, separate schemes in most countries of the world and in the Southern Africa Development Community (SADC) sub-region. The reason for exempting the Defence Forces in 1996 remained valid to this day as it was in line with the practice in many countries.

The Defence Forces had unique characteristics and service conditions that, if placed under the NAPSA with its current provisions, may have a negative impact on the financial soundness of the scheme. International best practice had been that members of the Defence and Police Forces are separately catered for.

The above notwithstanding, the option of placing pension benefits for members of the Defence and Police Forces under NAPSA would be explored in the next actuarial evaluation due in 2011 in order to carefully scrutinise the likely impact and assess the long term funding requisite necessary to finance the added liability.

In order to ensure uniformity in the pension system and protection of employees' rights, the Government is examining the possibility of removing the provisions in the *NAPSA Act* that exempt Konkola Copper Mines and Mopani Copper Mines from contributing to NAPSA.

**Committee's Observation and Recommendation**
Following the observation by LASF, through their letter dated 5 August 2010, that your previous Committee's observation that some members of defence forces and civil servants contributed to LASF was not correct, your Committee wish to correct the record by deleting the words "and LASF." The correct sentence should therefore read "*There were also other members of the Defence and Civil Service who contributed to the PSPF, but did not contribute to NAPSA.*"

On the Executive's response, your Committee requests an update on the actuarial evaluation scheduled for 2011 and revoking the exemption of staff of Konkola and Mopani Copper Mines from contributing to NAPSA. It, however, resolves that Defence and Police should continue being exempt from NAPSA.

b) **PSPF and LASF as Supplementary Schemes**

6.2 Your previous Committee observed that the PSPF and the LASF were envisaged to be transformed into occupational schemes to supplement the mandatory schemes. However, Your Committee was concerned that the two were still operating as mandatory pensions. Your Committee, therefore, recommended that the two pension schemes should be transformed into occupational schemes and supplementary schemes and that all employers contributing to these schemes must be compelled to contribute to NAPSA as provided for in the *National Pension Scheme Authority Act.*

**Executive's Response**

The Government in response submitted that there had been calls by the PSPF and the LASF to exempt their members from contributing to NAPSA so as to strengthen their contribution bases and protect the two public schemes from collapsing.

The PSPF and the LASF were created by Acts of Parliament, as mandatory pension schemes for the category of workers in the formal sector that they were meant to cover. In the case of LASF, it covered all the employees of the local and associated authorities on a compulsory basis.

Since 1992, the Government had been reforming the social security system with the major objective of establishing a comprehensive, efficient and effective system for its citizens. These reforms, among others, culminated into the formation of the NAPSA, which is the successor to the Zambia National Provident Fund.

*The National Pension Scheme Authority Act* in its current form provides that all the new entrants into the Local and Associated Authorities must contribute to NAPSA on a compulsory basis. The provision also extends to all the new employees joining the civil service who should subscribe to NAPSA and not the PSPF.

The creation of NAPSA has brought several challenges in the social security industry. One of the challenges has been the declining membership base and consequently shrinking contributions to the LASF. The PSPF also has the same problems of declining membership base and contributions. The implications of this position were that the two Funds have a finite life span and were headed to being wound up.

Following a series of consultations with stakeholders undertaken as far back as 2002, exemption of the PSPF and LASF from the *National Pension Scheme Authority Act* was identified to be critical if the sustainability and solvency of the Fund was to be assured.

As a consequence of the consultations with stakeholders, the Government, through the Ministry of Labour and Social Security, has developed a draft National Social Security Policy which is currently awaiting Cabinet approval. The draft National Social Security Policy has clearly outlined the social security policy objectives of the country. In the draft policy document, the need to exempt new members joining the Local and Associated Authorities from contributing to NAPSA was recognised and provided for.

Thus in summary the entrants in the Councils and other Associated Authorities, such as ZESCO, National Housing Authority and water utility companies should contribute to LASF. Similarly, new entrants into the public service should contribute to PSPF under the draft National Social Security Policy.

With regard to transforming the PSPF and the LASF into supplementary occupational schemes, the Government was of the view that some actuarial studies needed to be conducted to assess the option further and determine the optimum contribution rates since there were implications on both the employer and the employee who may have to make extra contributions.

**Committee's Observation and Recommendation**
Your Committee observes that the National Social Security Policy has been pending before Cabinet for a long time. It, therefore, urges the Ministry of Labour and Social Security to use powers within its means to expedite the adoption of the Policy which among other things should provide for:

(i) all staff in councils and associated authorities such as ZESCO and National Housing Authority to be contributing to LASF; and
(ii) all public service workers to be contributing to PSPF.

Your Committee further requests for an update on actuarial studies to assess the possibility of transforming PSPF and LASF into supplementary occupational schemes.

**(c) Supervision of PSPF and LASF by the PIA**

6.3 Your previous Committee observed that the PSPF and the LASF had been resisting supervision by the Pensions and Insurance Authority. In order to enhance good corporate governance, your Committee recommended that all pensions should be supervised by the Pensions and Insurance Authority. In this regard, the *National Pension Scheme Act* should be amended to allow for the supervision of NAPSA by the Pensions and Insurance Authority (PIA).

**Executive's Response**
The Government in response submitted that it had no objections to having the PIA supervise NAPSA. There are already some discussions on the matter through the office of the Secretary to Treasury and a concept note is being developed to this effect.

**Committee's Observation and Recommendation**
Your Committee notes the progress and requests an update on the matter. Your Committee re-emphasises the need to have all pension schemes, including the LASF, supervised by the PIA.

d) **Increasing Coverage of Pensions**

6.4 Your previous Committee observed that the coverage of pensions in Zambia was limited to the formal sector. This excluded the majority of the people in the informal sector and as such, relegated them into destitution at retirement. Your Committee also observed that the old who were previously not in formal employment and not contributing to any scheme were excluded from pensions. Your Committee, therefore, recommended that measures should be put in place to extend coverage of pensions to the informal sector. It also urged the Government to scale up awareness activities to encourage workers in the informal economy to take up pension schemes.

**Executive's Response**
The Government submitted that it realised that the majority of the Zambian Labour force were in the informal sector with little or no social security coverage. The Government has earmarked funding for some surveys to collect information on the extension of social security coverage to the informal sector, the desired contributions and contingencies to be covered. The informal sector has different needs and their ability, willingness and consistency to contribute varied from one sub-sector to another and therefore their diverse and dynamic needs had to be factored in when considering extension of social security coverage.

**Committee's Observation and Recommendation**
Your Committee notes the response and requests an update on the survey to collect information on the possibility of extending pension coverage to the informal sector.

**(e) Adoption of the National Social Security Policy**

6.5 Your previous Committee observed that there was no policy on social security and recommended that a national policy on social security be developed to address the challenges in the social security system in Zambia. Your Committee stated that, other than retirement benefits, the draft National Policy should provide for maternity, redundancies, health and old age.

**Executive's Response**
The Government in response made an assurance that the draft National Social Security Policy which was currently awaiting Cabinet approval, amongst other issues, seeks to address maternity, redundancies, health and old age benefits.
**Committee's Observation and Recommendation**
Your Committee notes the response and requests an update on the matter.

**(f) Harmonisation of the Supervision and Regulation of Pensions**

6.6 Your previous Committee observed that the coordination and supervision of social security in Zambia was fragmented, as various pensions were regulated by different pieces of legislation and supervised by different ministries. Your Committee, therefore, recommended that these pieces of legislation should be harmonised so that the pension system in Zambia could operate effectively. Further, it recommended that all pensions should be regulated by the Pension and Insurance Authority and that the PIA should continue to report to the Ministry of Finance and National Planning because of the financial aspects of pensions. However, the Ministry of Labour and Social Security should remain in charge of labour-related aspects of Pensions Policy.

**Executive's Response**
The Government in response submitted that once adopted by Cabinet, it expected the draft National Social Security Policy to address some of the harmonisation related issues through the amendment of certain relevant pieces of legislation. The Government was still carefully studying the issues of harmonisation by consulting key stakeholders.

**Committee's Observation and Recommendation**
Your Committee resolves that it be updated on the harmonisation of laws governing pension schemes to ensure that supervision and regulation of all pension schemes will be under the PIA.

**(g) Actuarial Deficits**

6.7 Your previous Committee observed that most of the pensions were heavily indebted partly because of poor remittances by the Government and local authorities.

In order to avoid actuarial deficits, Your Committee recommended that the Government should make timely contributions to pensions. It also recommended that the Government should encourage the establishment of actuaries to provide actuarial valuations of pensions.

**Executive's Response**
The Government submitted that using a central approach through the Ministry of Finance and National Planning, it began dismantling its debt to public pension schemes about two years ago and had cleared-off over half the debt. The Government was determined and committed to clearing the remainder of the debt.

The Government was supportive of initiatives that promoted the actuarial industry and practice in Zambia by social partners. So far, an actuarial consulting firm had opened up an office in Zambia. Furthermore, an Actuarial Society of Zambia has been formed and was forging partnerships with the Government and training institutions in order to introduce actuarial studies as part of their curriculum.

**Committee's Observation and Recommendation**
Your Committee applauds the Government for the effort of clearing the unremitted pension contributions. It, however, urges the Government to intensify the efforts and report progress on the matter.

**(h) Outdated Legislation**

6.8 Your previous Committee observed that some pension laws were outdated and out of touch with reality and led to retirees getting low benefits. Your Committee, therefore, recommended that the old and outdated pieces of legislation should be reviewed to allow retirees get meaningful benefits. It also urged the Government to compel all pensions to index retirees' benefits to inflation.

**Executive's Response**
The Government in response submitted that, most of the pieces of legislation governing social security institutions are currently under review. Some of the provisions were in the Constitution and recommendations and provisions had been made under the current Constitution Review exercise.

**Committee's Observation and Recommendation**
Your Committee requests an update on the specific pension laws that are being reviewed taking into account the fact that the Constitution Review exercise had not been successful.

**(i) Portability of Benefits**

6.9 Your previous Committee observed that it was not possible to transfer the benefits from one pension scheme to another. Your Committee recommended that the law should be amended to provide for portability of benefits.

**Executive's Response**

The Government in response submitted that it appreciated the benefits of portability of pension benefits from one pension scheme to another. The Government was also aware of the implications of carrying pension benefits across pension schemes especially if portability was from a Define Contribution Scheme to a Defined Benefit Scheme and vice-versa. There is need to carefully study the matter and Government would through already existing structures explore the issue.

**Committee's Observation and Recommendation**

Your Committee notes the need for a thorough study on the matter but wishes to advise that priority should be placed on ensuring portability of benefits between like schemes i.e. defined contributions to defined contributions schemes and from defined benefit to defined benefit schemes.

**(j) The High Supervisory and Administrative Costs**

6.10 Your previous Committee observed that the levy of 0.3 percent of the net assets imposed by the Pension and Insurance Authority was high and contributed to the high administrative costs. Your Committee recommended a reduction of this levy.

**Executive's Response**

The Government submitted that the current Pension System was as a result of wide stakeholder consultations that culminated in the 2005 amendments to the *Pensions Regulation Act* of 1996. The rationale for the introduction of a pension levy was that, with such a revenue stream, the Pensions and Insurance Authority would be able to discharge its functions adequately as the Government had other pressing needs and its resource envelope was, therefore, not adequate. During the consultative process, three options of charging the levy were proposed, namely: a per member levy, a percentage of contributions levy and a levy on net assets. It was resolved to adhere to net assets as a basis of charging the levy as this was found to be more plausible.

The Pensions and Insurance Authority did a three year plan in line with the Medium Expenditure Frame Work to project its expenditure which translated to the current charge of 0.3 percent. The Government was committed to continuing with broad-based consultations so that all the concerns raised by stakeholders were taken into account. In this regard, under the Financial Sector Development Plan (FSDP II) there are plans to conduct a comparative study in the sub-region in 2011. It was envisaged that the results of the study would inform the efforts of putting in place a competitive, fair and equitable pension levy.

**Committee's Observation and Recommendation**

Your Committee resolves to await the results of the comparative study on administrative costs of pension schemes. It, however, urges the Government to reconsider the levy of 0.3 % on net assets especially that NAPSA and LASF will come on board.

## B. Unemployment Situation in Zambia

**Para 6.2, Pages 8/9**

*(a)* ***Inadequate Funding to the Ministry of Labour and Social Security.***

6.11 Your previous Committee observed that the Ministry of Labour and Social Security, in conjunction with the Central Statistical Office, had not been able to make the available labour statistics on the employment situation in Zambia since 2005. This was, mainly, because of inadequate funding to the Ministry of Labour and Social Security. Your Committee, therefore, recommended that the Government should improve the funding situation to the Ministry of Labour and Social Security for it to adequately implement its programmes including conducting studies on the employment situation in Zambia.

**Executive's Response**

The Government submitted that generally, resources were scarce and could not meet all demands from Ministries, Provinces and Other Spending Agencies (MPSAs). There was, therefore, need to balance developmental objectives across all MPSAs within the available resources.

From 2004, the Government had changed its approach to budgeting from the incremental to Medium Term Expenditure Framework (MTEF) approach. The MTEF emphasised prioritisation of programmes and activities and make choices on which programmes and activities they could undertake in a year or MTEF period. This approach to budgeting, therefore, discouraged MPSAs to spread resources too thinly across many programmes and activities otherwise no impact can be achieved on the ground.

At the aggregate level, prioritisation of programmes in the Fifth National Development Plan (FNDP) has been towards Infrastructure and Human Development. In this regard, resources over the FNDP period (2006-2010), had been increasingly directed towards health, education and infrastructure development.

With regards to the need to provide adequate funding to enable the Ministry of Labour and Social Security recruit, the restriction of recruitment was true not only to this Ministry but also to other Ministries with the exception of the Ministries of Education and Health and the Zambia Police that have in the past been allowed to recruit. This restriction was based on two policy decisions. The first one was to improve service delivery in the three institutions by recruiting more medical staff and teachers to man old and newly constructed infrastructure (schools, hospitals, clinics and health posts, etc) and police officers to improve public safety.

The second policy decision concerned the need for the Government to control the growth of the Civil Service Wage Bill so that a good proportion of domestic resources could go towards development needs. The faster growth in the Civil Service Wage Bill could be explained by two factors, namely, the continued recruitment drive in the institutions mentioned above and the salaries and wage awards. In order to prevent the Civil Service Wage Bill from sky rocketing, recruitment in the Civil Service has been restricted. In this regard, the Ministry of Labour and Social Security must make effective use of the staff it had presently to fulfil its mandate.

For other MPSAs such as the Ministry of Labour and Social Security, the Government has endeavoured to keep their allocations at meaningful levels. As such, the allocations to the Ministry both for Personal Emoluments and Non- Personal Emoluments increased from K16.3 Billion in 2007, to K18.1 Billion, in 2010. The increase in Non-Personal Emoluments from K12.2 Billion in 2007, to K15.6 Billion in 2008, was necessitated by the need for the Ministry of Labour and Social Security to undertake the Labour Market Information System/Labour Force Survey and the opening up of field stations in Mumbwa and Siavonga.

Financial resources were scarce and never adequate. What was important for the Ministry was to make use of the available resources and achieve its objectives. The Treasury, however, continues allowing the replacement of staff currently on the payroll that retire or leave employment through resignation, death etc.

With the present revenue challenges and the reduction in donor support for the budget, the Ministry of Labour and Social Security should effectively use the available resources to achieve its mission. Whenever possible, the Treasury would endeavour to provide more resources once mobilised.

**Committee's Observation and Recommendation**

Your Committee considers the response unsatisfactory. It further observes that statistics on the labour force are not current despite the existence of the Ministry. It is therefore important for the Government to provide the necessary resources to enable the Ministry fulfil its mandate. Your Committee requests an update on the matter.

*(b)* ***Generation of Local Employment Opportunities***

6.12 Your previous Committee observed that the large multi-national companies with no clear policy on skills transfer to Zambians received generous incentives while local companies did not. Your Committee was aware of the importance of attracting foreign investment to Zambia and that the Country was competing with other destinations for the same investors. Your Committee recommended that investment promotion incentives needed to give considerable emphasis to the generation of local employment opportunities. In addition, investors receiving incentives should demonstrate their policy on skills transfer to Zambians. It also urged the Government to ensure that incentives did not only benefit foreign companies, but local companies as well.

**Executive's Response**

The Government in response submitted that the Investment Policy was clear on the number of expatriates that can accompany an investment. In addition, the Zambianisation Committee, chaired by the Hon Deputy Minister of Labour and Social Security, is active and held regular meetings to ensure that expatriate workers transfer skills to Zambians with a view to the Zambians taking over.

The Government was also happy to report that the investment promotion incentives enshrined in the *Zambia Development Agency Act* of 2006 were non discriminatory and were intended for the benefit of both local and foreign investors. There exists a clear criterion for determining the appropriate incentives for various investors. The incentives are awarded on the basis of thresholds for investments of not less than US$500,000 in the priority sectors of the economy. The priority sectors included agro-processing, manufacturing, energy, tourism, mining, health, education and skills training.

The Government recognised that the number of local investors accessing incentives was low. The main reasons for this include: limited access to credit; limited market access; high cost of doing business; inadequate or obsolete equipment and limited infrastructure.

In this regard, the Government had embarked on programmes to address some of these challenges.

Some of the interventions are given below.

(a) Implementation of the Private Sector Development Business Licensing and Doing Business Reforms to reduce the cost of doing business. Under the 'Business Licensing Reforms; the regulatory environment was being reformed and unnecessary licenses, procedures and requirements are being removed. The removal would reduce compliance costs for businesses and thus reduce the cost of doing business. 170 licenses had been earmarked for elimination.

    Under the "Doing Business Reforms", the Government was identifying and removing obstacles that local enterprises face throughout the business cycle by reducing the time taken to comply with required regulation. So far the number of days to start a business, import and export goods, has reduced. For instance, registering a business name at the Patents and Companies Registration Office now took a day.

    At the ZRA, the process of streamlining and decentralisation processes for business registration, paying of property tax and reducing clearance times for customs clearance at border posts had commenced and significant progress was being made.

(b) Public Private Partnerships (PPPs): The Government had identified PPPs as a viable means of accelerating infrastructure development that could effectively address the constraints of finance and management capacity that the Government faced for public infrastructure and service projects. The intention of Government was to engage the private sector in the development of infrastructure and services through Public-Private-Partnerships.

    The Government had since put in place the PPP policy and legislation and several projects were in the pipeline for implementation. This would assist address the infrastructural challenges that Zambian enterprises faced in an effort to expand.

(c) Establishment of Multi Facility Economic Zones and Industrial Parks. The development of Multi-Facility Economic Zones (MFEZs) was an undertaking of strategic national importance. The MFEZs were aimed at enhancing the performance of the manufacturing sector by increasing value addition activities and hence contributing to wealth and job creation.

    The current MFEZs in Zambia once fully developed, would create more than 26,000 jobs with investment flows exceeding US$2.7 Billion. They would also provide Zambians with opportunities to upgrade their skills both as employees and as operators within the MFEZs or supplying to large corporations in the MFEZs. All investors, local and foreign, had equal opportunities to invest in any of the MFEZs as the principal law governing the MFEZs did not discriminate between foreign and local investors.

(d) The Government, through various institutions, was supporting the micro, small and medium enterprises sector through a number of initiatives. Notable ones included the following:

(i) introduction of the Business Development Services Voucher Scheme which provides access to subsidised business advisory services for Micro, Small and Medium Enterprises (MSMEs). The Programme is implemented through the Zambia Development Agency in collaboration with the Zambia Chamber of Small and Medium Businesses Association and the Zambia National Farmers Union as facilitators and Madison Investment Company Ltd as Fund Managers;
(ii) introduction of the business linkages programme and tailor made MSME training in access to markets and finance;
(iii) Incorporating local business development conditionalities to investment protection agreements with multinational corporations seeking tax concessions from the Government. More efforts were being made following the approval by the Government of the MSME Policy to assist the MSMEs to graduate into large enterprises;
(iv) provision of low cost financing through the Citizens Empowerment Fund which is designed to facilitate greater participation of targeted citizens, citizens influenced companies, citizens empowered companies and citizens owned companies; and
(v) the Government had put in place a Credit Guarantee Scheme which has been developed in collaboration with financial institutions. The Credit scheme was intended to enable MSMEs with good proposals but lacking sufficient collateral to access credit. With the Credit Guarantee Scheme in place, providers of credit were assured that the risk would be practically covered by the Development Bank.

**Committee's Observation and Recommendation**
Your Committee notes the response and resolves that they be updated on Public Private Partnerships, MFEZs and Industrial Parks vis-à-vis employment creation and skills transfer.

***(c) Promotion of Value Addition***

6.13 Your previous Committee observed that there was limited or no value addition on exports from Zambia. This means that Zambia was effectively exporting labour to other countries. Your Committee recommended the promotion of value addition on raw materials so as to increase the value of exports and create employment for local people.

**Executive's Response**
The Government in response submitted that it has realised that, for Zambia to attain sustainable development, there was need to diversify the economy from copper mining to other sectors as well as invest in value addition in agriculture and other primary commodities. This measure has already been undertaken as highlighted in the 2010 Budget Address by the Minister of Finance and National Planning.

**Committee's Observation and Recommendation**
Your Committee requests the Ministry of Commerce, Trade and Industry to report progress on all value addition programmes that the Government is currently implementing.

**(d) Foreign Labour**

6.14 Your previous Committee observed that most of the jobs whose skills were available in Zambia were being handled by foreigners while excluding the local people. The Committee recommended that measures be put in place to ensure the employment of local people. Only foreigners with skills that were not locally available should be allowed to work in Zambia.

**Executive's Response**
The Government in response reported that a mechanism already existed for controlling the recruitment of foreign labour at the expense of local skills. This was the Work Permits Committee under the Ministry of Home Affairs. The Government was working on strengthening the operations of this Committee to address some of the concerns raised regarding engagement of foreign labour. The review involved ensuring that the Work Permits Committee works closely with the Zambianisation Committee for effective monitoring.

**Committee's Observation and Recommendation**
Your Committee while appreciating the existence of a mechanism of controlling the recruitment of foreign labour, recommends that the Zambianisation Committee should be legally empowered to be determining which skills are locally not available at any particular time.

**C. Update on the Diversification Programme**

***Para 7.2, Pages 13/14***

*(a)* ***Slow Pace of the Diversification Programme***
6.15 Your previous Committee observed that the diversification programme was important if the country's economy was to withstand external shocks. This observation was supported by the challenges the country faced as a result of the recent global financial crisis which led to a remarkable decline in copper prices. The country experienced a remarkable decline in foreign exchange leading to a sharp depreciation of the Kwacha. Some mines were closed or put on care and maintenance, causing severe job loses. Therefore, your Committee was concerned that the Government had been promulgating the diversification of the economy for some time and yet limited progress had been made in achieving this goal. Your Committee, therefore, recommended that urgent measures should be put in place to speed up the diversification programme.

**Executive's Response**
The Government in response submitted that the crop diversification and commercialisation was adopted by the Ministry of Agriculture and Co-operatives among other things to enhance income generation and food security at household and national level through the production of a wide range of crops.

The commercialisation of agriculture aims at creating a conducive environment that enabled both local and foreign investment to fully exploit Zambia's agricultural potential in order for the country not only to attain economic diversity and growth, but also food security.

The Nansanga Farming Block development programme would operate under the guidelines of an out-grower arrangement similar to Nakambala Sugar Estates and Kaleya Small holding Ltd in Mazabuka, and would provide the much needed diversification in agriculture.

There were many activities taking place in Nansanga farming block in order to get it ready for investment. Phase 1 of electrification had been completed, which involved the construction of the 33 KV over head lines totalling a distance of 95 km from Serenje Boma to Kabeta substation. 29.5 KM of the 11 KV overhead line in the Luombwa part of the farm block has been completed.

Four bridges have been funded under the current Farm Block Programme. One bridge (Mutate Bridge) was funded and contracted directly to the District Council by the Ministry of Agriculture and Co-operatives through the rural investment programme arrangements.

Of the other three bridges under the current funding the Road Development Agency, the upper Luombwa Bridge has been completed. Nyamanda and Ifuna Bridges were currently both under construction. Work was expected to be completed by 30th October 2010.

**Committee's Observation and Recommendation**
Your Committee notes the update on the agriculture component of the Diversification Programme. Similarly, it requests updates on the other components such as tourism, manufacturing and non-traditional mining.

(b) **Poor Institutional Co-ordination and Supervision of Development Projects in Nansanga Farming Block**

6.16 Your previous Committee observed that there was lack of co-ordination and supervision among various ministries in the development of Nansanga and as such, the quality of work on roads and bridges was poor. As a result of poor co-ordination, there was limited monitoring of the activities by contractors and, therefore, one contractor, who was already paid, had abandoned the project. In some cases, the bridges were falling apart. Your Committee recommended that the roles by various ministries and other institutions such as the Road Development Agency in the development of Nansanga should be clearly spelt out to ensure accountability. There was also need for a local focal point person to coordinate and supervise the activities.

**Executive's Response**
The Government submitted that following a Presidential directive in 2002, the development of Nansanga Farming Block had been spearheaded by four ministries namely; the Ministry of Lands, the Ministry of Agriculture and Cooperatives, the Ministry of Finance and National Planning and the Ministry of Works and Supply. Three Committees on Farm Block Development were also constituted which were, the Committee of Ministers from the initiating Ministries, the Committee of Permanent Secretaries, and a multi-sectoral sub-committee of technocrats.

The Minister of Finance and National Planning chaired the Ministerial Committee; the Secretary to the Treasury chaired the Committee of Permanent Secretaries whilst the Multi-sectoral Committee of technocrats is chaired by the Director of Agriculture, who took over from the Surveyor-General. The Multi-Sectoral Committee reported to the Committee of Permanent Secretaries which in turn reported to the Committee of Ministers.

During the implementation of the Nansanga Farming Block, it was found necessary that each District established an ad-hoc Technical Committee to be chaired by the District Commissioner with representation from the Provincial Permanent Secretary office, the Ministry of Agriculture and Co-operatives and representatives from other Ministries at Provincial level to guide the programme implementation.

Whilst the Ministry of Agriculture and Co-operatives was the lead Ministry responsible for the implementation of Farm Block Development Plans, the Multisectoral Committee was mandated to co-ordinate the development of the Farming Block Programme in the country. The Committee sat on a quarterly basis as the case maybe.

The Lower Luombwa Bridge that was reported to have been abandoned by the contractor was not one of the Nansanga farm block funded bridges. This bridge was one of the many infrastructural works in Serenje District that were previously funded under the Emergency Recovery Programme under the Disaster Management and Mitigation Unit of the Office of the Vice-President.

**Committee's Observation and Recommendation**
Your Committee notes the response and requests an update on the development of the Nasanga Farm Block. Included in the update should be details of the focal-point officer to hold to account and lead farmers that out-growers will feed into.

**(c) Development of the Kasaba Bay Airport**

6.17 Your previous Committee appreciated the efforts by the Government to upgrade the airstrip in Kasaba Bay to international status. It was aware that the Zambia Air Force (ZAF)Airport in Mbala was created for military purposes. Your Committee, however, recommended that the Government should put up corresponding infrastructure to accommodate Airport, Immigration and ZRA staff including health and education facilities for their families.

**Executive's Response**
The Government in response submitted that it had developed the Kasaba Bay Tourism Resort Development Project to enhance tourism activities on the Northern Circuit. While keeping tourism in focus, the project was holistic in nature ensuring integrated development planning for the Kasaba Bay area. Therefore, all social and economic amenities for the entire area, in terms of housing, health facilities, schools, police posts, immigration posts, banking facilities, recreation, shopping facilities and so on would be in place. The idea is to create a fully fledged resort with all the essentials support infrastructure provided.

**Committee's Observation and Recommendation**
Your Committee requests an update on the Integrated Plan of Kasaba Bay and related infrastructural development such as roads, telecommunication, education and health facilities in the area.

**(d) Poor Marketing of the Tourism Attractions in the Northern Circuit**

6.18 Your previous Committee observed that despite Zambia being blessed with beautiful tourism attractions in the Northern Circuit, the place had not been effectively marketed. Your Committee recommended that more effort should be directed at marketing the Northern Circuit as a tourism destination. Further, it recommended that the roles in the marketing of tourism by various institutions such as the Ministry of Local Government and Housing, the Ministry of Tourism, Environment and Natural Resources and the Zambia Tourism Board (ZTB) should be clearly spelt out to avoid conflict.

**Executive's Response**

The Government in response submitted that it has delegated the task of tourism marketing to the ZTB. The Board which was recently re-organised would soon make effective tourism marketing for all tourism products in the country. It is hoped that in 2011, more resources will be made available to the Board to intensify marketing efforts through the re-introduction of the Visit Zambia Campaign.

In terms of spelling out marketing roles, ZTB has a clear mandate to market and promote Zambia as a major tourist destination of choice as reflected under Section 4 of the *Zambia Tourism Board Act* No. 24 of 2007. This was a delegated responsibility to ZTB from the Ministry of Tourism, Environment and Natural Resources and therefore the issue of conflict between the two was not there.

As for the Ministry of Local Government and Housing, the local authorities do market and promote their local areas to supplement ZTB marketing efforts which were at national level.

**Committee's Observation and Recommendation**

Your Committee while appreciating the mandate of the ZTB to market tourism, recommends that local authorities should be strengthened to effectively market tourist attractions in their areas as ZTB is not present in many parts of Zambia.

**(e) Poor Sequencing of Development Projects in Nansanga Farming Block**

6.19 Your previous Committee appreciated the development of Nansanga Farming Block. They believed that it would open up the area for development. However, your Committee noted with concern that there were areas near Nansanga where local farmers were already settled and yet they lacked the necessary amenities. Your Committee recommended that the development of Nansanga should include the existing surrounding farming blocks, such as Luombwa, Lunte and Sasa, where local farmers were already settled. This would enhance the participation of local people in the Nansanga Farming Block.

**Executive's Response**

The Government in response submitted that in addition to Nansanga Farming Block, there were other farm blocks in the Nansanga area. They include Sasa, Luombwa, Munte (not Lunte), and Kasanka, whilst Kampumbu was a resettlement scheme under the Office of the Vice-President. All these farm blocks including the resettlement scheme would be serviced by the infrastructure developed in the Nansanga Farming Block and the local people would be able to participate in the developmental projects.

**Committee's Observation Recommendation**

Your Committee observes that the infrastructural developments in Nasanga Farm Block will not be beneficial to other farming blocks in the area. It, therefore, requests a further update on developments in other farm blocks with respect to access roads, electricity and water.

**(f) Poor Infrastructure**

6.20 Your Committee observed that the infrastructure in the Northern Circuit was poor. The road leading to the Kalambo Falls was in a deplorable state. There were no communication facilities in Kasaba Bay. Your Committee, therefore, recommended that roads in the Northern Circuit, especially, the one leading to Kalambo Falls and Kasaba Bay should be rehabilitated as a matter of urgency. It further recommended that communication facilities should be made available for tourists in Kasaba Bay.

**Executive's Response**

The Government submitted that it was aware of the poor infrastructure in the Northern Circuit and was equally concerned. The Kasaba Bay/Mbala road was in the process of being rehabilitated together with the construction of the main bridge. Regarding the road leading to Kalambo Falls, considerations would be made depending on the availability of funds.

In terms of communication facilities, the Integrated Development Plan Team was finalising the Cost Investment Plan with a view to invite the private sector to seize the available investment opportunities which had been identified in the area.

**Committee's Observation and Recommendation**

Your Committee resolves that it be updated on the rehabilitation of the road infrastructure in the area, in particular, the Kalambo Falls Road.

***(g) Inadequate Guidelines for the Development of Nansanga***

6.21 Your previous Committee observed that there were no guidelines on how land in the Core Venture should be utilised. In this regard, your Committee recommended that utilisation of the 9500 hectares of land for the core venture should be streamlined. In addition, clear guidelines should be drawn up to guide the selection of the type of crops and activities to be allowed in the farming block, especially the core venture.

**Executive's Response**

The Government submitted that any investors had expressed interest to invest in the Nansanga Farming Block including the Chinese, Egyptians, Hungarians, Indians, and South Africans, who had visited the farm block. Expression of interest in the core venture would soon be advertised.

Crops to be grown in the Nansanga Farm Block were to be determined by the crop suitability to the soils. Investors would be able to make a choice of the type of crops they intended to grow depending on market viability. Wheat, Maize, soybeans, tobacco, parprika, coffee and cassava were some of the suitable crops. Fish farming and livestock (small and large ruminants) production were also viable agribusiness ventures.

**Committee's Observation and Recommendation**
Your Committee requests an update on the core venture crops and on outgrowers schemes. It further recommends that there should be a balance between production of income generating crops and food security.

## CONSIDERATION OF OUTSTANDING MATTERS FROM THE FIRST REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS AND LABOUR FOR THE FOURTH SESSION OF THE TENTH NATIONAL ASSEMBLY

### (1) Impact of the Global Economic Crisis on Zambia's Economy and the Stability and Operations of the Financial Markets

***Para 8.0, Pages 14/15***

(a) **Dollarisation**

6.22 Your previous Committee had recommended that the Ministry of Finance and National Planning should issue a Statutory Instrument compelling all business players to quote their prices in Kwacha.

In response, the Government had explained that in order to counter the practice of quoting prices in United States Dollars, it had instituted measures to issue a Statutory Instrument compelling all business players to quote prices for goods and services in Kwacha. In this regard, the Government had intended to amend the Bank of Zambia (Currency Regulations), 2009, to compel all business players to quote prices in Kwacha. A layman's draft of the proposed changes to the regulations had already been submitted to the Ministry of Justice for scrutiny, before the Statutory Instrument could be issued.

In view of the response given by the Government, your previous Committee requested to be updated on what had been done, to ensure that the Statutory Instrument was finally issued.

**Executive's Response**
The Government submitted that it had initiated the process of preparing subsidiary legislation to counter the practice of quoting prices in United States Dollars. In the last Action Taken Report for your Committee, it was reported that a layman's draft for the proposed changes to the regulations had been submitted to the Ministry of Justice for their scrutiny, before the Statutory Instrument could be issued.

The current status was that consultations were still on-going after the Ministry of Justice guidance. In the initial draft submitted to the Ministry of Justice, the recommendation in the layman's draft was that the penalties under the *Bank of Zambia Act,* would apply to business players that quoted their prices in Dollars. However, these penalties were very stringent, in line with the need for prudential banking such that the system would result in the closure of many businesses, especially medium and small enterprises.

Discussions were still on-going about how best to ensure a balance between the need to have the anti-dollarisation law while ensuring that businesses could continue operating even when they were found to be quoting in dollars.

**Committee's Observation and Recommendation**
Your Committee requests a further update on the matter.

b) **Externalisation**

6.23 Your previous Committee had recommended that the Bank of Zambia should come up with a regulatory framework to curb the externalisation of all the earnings by investors.

The Government had responded that they had, since the early 1990s, done away with foreign exchange controls. Zambians and foreigners alike were free to keep or take away their foreign exchange earnings without any hindrance from the Government. This had resulted in calls by many economic agents for the Government to put in place a regulatory framework to curb the externalisation of earnings by investors. The Government maintained that the policy with regard to foreign exchange controls was to maintain the status quo.

Your previous Committee appreciated the Government's position on the externalisation of earnings by investors. Your Committee had made several recommendations in the past to the effect that this policy was bad for the economy, while the Government has maintained that the status quo is preferred. Your Committee put it on record that it was against the policy of allowing wholesome externalisation of earnings. It implored the Government to study this matter further.

**Executive's Response**
The Government submitted that it welcomed the important observation and recommendation by your Committee. Indeed the Government liberalised the Current Account in the 1990s. This had led to calls for a review, especially in light of volatile fluctuations of the Kwacha, even in the midst of sufficient foreign exchange holdings in the country. In view of the foregoing, the Government proposed to have a detailed and comprehensive study on the matter. The findings of the study would then form the basis for externalisation policy going forward, without contravening the country's obligations to International Conventions and Agreements.

**Committee's Observation and Recommendation**
Your Committee requests a further update on the study on externalisation of earnings by foreign investors. In the intervening period, it strongly urges the Government to curb the externalisation of sale proceeds.

c) **Reduction of Lending Rates**

6.24 Your previous Committee had recommended that the Bank of Zambia should come up with workable measures to reduce lending rates, such as targeting interest rates, since the use of money supply as an operational policy instrument had not been effective.

The Government had informed your Committee that it was aware of the need to review its Monetary Policy Framework, especially, with a view to facilitating a reduction of interest rates, which had remained high despite the significant reduction in the inflation rate. Towards this end, the Government informed the Committee that, work was underway on the institutional, analytical and communication elements that were required for the shift to using interest rates as the main instrument to anchor inflationary expectations.

Once the assessment was finalised, the Government would be in a position to determine a better method to use as the main monetary policy instrument. The Government informed your Committee that, it was also important to note that whatever the monetary policy instrument was to be used, achieving and maintaining low and stable inflation would be vital in reducing interest rates.

Your previous Committee appreciated the response and would await an update on the Government's assessment of the need to shift to the interest rates as the main instrument to anchor inflation expectations and reduce the high interest rates.

**Executive's Response**
The Government submitted that it remained committed to the policy of reviewing its Monetary Policy Framework, with a view to facilitating a reduction in interest rates, which had remained high despite a reduction in the inflation rate. However, the Government was also cognisant of some of the hindrances to the operation of such a system, such as:

i) huge government balances in commercial banks;
ii) absence of a Bank of Zambia Policy Rate;
iii) lack of a quarterly inflation report; and
iv) absence of a quarterly macro-economic model.

As indicated in the last Action-Taken Report, these were some of the institutional, analytical and communication elements that were required for the shift to using interest rates as the main instrument to anchor inflationary expectations. Some progress had been made towards addressing the hindrances, such as using trial runs of the Treasury Single Account currently on-going at the Ministry of Finance and National Planning and the conceptual study on the establishment of the Bank of Zambia Policy Rate.
The other hindrances to ensuring that the system worked properly once implemented were being looked into. With this phased approach to the migration to use of interest rates as the anchor for monetary policy, the Government was confident about the credibility of the transition.

**Committee's Observation and Recommendation**
Your Committee requests a further update on the measures of reducing interest rates as they have continued to be high despite significant reductions in the inflation rate.

d) **Unbundling of ZESCO Limited**
6.25 Your previous Committee had recommended that ZESCO Limited should be unbundled into Generation, Supply and Distribution components to run as separate entities. Unbundling ZESCO would make it more efficient and responsive to the current challenges in the sector. This would address the inefficiency that exists in ZESCO.

In response, the Government had explained that it supported measures aimed at making ZESCO more efficient and responsive to the challenges in the electricity sub-sector. However, due to the importance and strategic nature of ZESCO in the electricity sub-sector, dismantling ZESCO in separate units of Generation, Transmission and Distribution required serious consideration. In view of the above, the Government was re-assessing this issue with a view to deciding the way forward. It was hoped that a viable option on this important matter would be reached.

In view of the response given by the Government, your previous Committee requested for an update on the re-assessment of the proposal to unbundle ZESCO into Generation, Transmission and Distribution.

**Executive's Response**
The Government submitted that an Inter-Ministerial Committee comprising Ministers, Permanent Secretaries and Senior Technical Officers from the following selected Ministries: Finance and National Planning; Energy and Water Development; Justice, and; Commerce, Trade and Industry, as well as ZESCO Limited and the Energy Regulation Board was formed to look at various issues concerning ZESCO Limited. Unbundling of ZESCO Limited was among the key issues considered. The Committee had produced a draft report which has made a number of recommendations on various issues regarding ZESCO Limited. Cabinet was yet to consider the recommendations.

**Committee's Observation and Recommendation**
Your Committee requests a further update on Cabinet's decision on the recommendations of the Inter-Ministerial Committee on ZESCO Limited.

**(2) Matters Arising Out of the Tour of the Lusaka Stock Exchange (LUSE)**

***Amendment of the Securities and Exchange Act***
6.26 Your previous Committee had recommended that the Government should bring to Parliament for amendment the *Securities and Exchange Act* to bring it in line with international best practices. The law, if amended, would provide for the regulation of the Central Securities Depositories and enhance market efficiency, reduce the risks attached to transactions in securities by eliminating manual processes and establishing electronic clearing and settlement.

In response, the Government had welcomed the observation by your Committee that the existing legislation was lagging behind market developments, such as the Central Securities Depository. In order to overcome this shortcoming, the process of incorporating these new market developments had been initiated.

The Government, through the Ministry of Finance and National Planning, was actively involved in the process of finalising the consultative process on the new law before it could be presented to Parliament for approval. A Cabinet Memorandum proposing these changes had been prepared for onward submission to Cabinet for consideration.

Your previous Committee requested to be updated on the progress made on the matter so far.

**Executive's Response**
The Government in response submitted that it remained committed to reviewing the *Securities and Exchange Act*. In order to harmonise the process, however, it was necessary that the review was done in line with the recommendations of the Business Licensing Reform Committee, which also made a number of recommendations on streamlining the Act. In view of the large number of pieces of legislation that were earmarked for review under these reforms, amendment of the Act to bring it in line with international best practices was yet to be done. The above notwithstanding, the Government remained committed to ensuring that the Act was brought in line with international standards.

**Committee's Observation and Recommendation**

Your Committee resolves to await an update on the review of the Securities and Exchange Act which will provide for a regulatory framework to support, among other things, electronic clearing and settlement.

**CONCLUSION**

7.0 Your Committee is indebted to you Mr Speaker, the Clerk and Staff of the National Assembly for the guidance and services that were rendered to it during the Fifth Session of the Tenth National Assembly. It wishes to express its gratitude to all witnesses for their cooperation and input into its work. Your Committee further wishes to thank management teams and civic leaders of all places that it visited when considering the topical issue.

Lastly Mr Speaker, your Committee wishes to thank the National Democratic Institute for co-sponsoring the tour of Mufulira.

May 2011 Mr C W Kakoma, MP
**LUSAKA** **CHAIRPERSON**

## APPENDIX I

**List of Witnesses**

1. Bank of Zambia
2. Caritas Zambia
3. Centre for Trade Policy and Development
4. Chamber of Mines
5. Citizens for a Better Environment
6. Economic Association of Zambia
7. Environmental Council of Zambia
8. Federation of Small-Scale Miners Association
9. Mine Workers' Union of Zambia
10. Ministry of Commerce, Trade and Industry
11. Ministry of Finance and National Planning
12. Ministry of Labour and Social Security
13. Ministry of Mines and Minerals Development
14. Ministry of Tourism, Environment and Natural Resources
15. National Union of Miners and Allied Workers
16. Professor J Lungu, Consultant
17. Road Development Agency
18. Zambia Institute for Policy Analysis and Research
19. Zambia Revenue Authority
20. ZCCM Investment Holding PLC