REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON TRANSPORT, WORKS AND SUPPLY

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

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REPORT OF THE COMMITTEE ON TRANSPORT, WORKS AND SUPPLY FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 20TH SEPTEMBER, 2022

1.0 Membership of the Committee

Mr Mubika Mubika, MP (Chairperson); Ms Tasila E Lungu, MP (Vice Chairperson), Mr Emmanuel M Musonda, MP; Mr Sunday C Chanda, MP; Mr Newton Samakayi, MP; Mr Mayungo Simushi, MP; Mr Joseph S Munsanje, MP; Mr Frank Kapyanga, MP; Mr Gift S Sialubalo, MP; and Mr Taulo K Chewe, MP.

The Honourable Madam Speaker
National Assembly
Parliament Buildings
LUSAKA

Madam
The Committee has the honour to present its Report for the First Session of the Thirteenth National Assembly.

2.0 Functions of the Committee

In addition to any other duties placed upon it by the Honourable Madam Speaker or any standing order of the Assembly, the duties of the Committee on Transport, Works and Supply are as set out in Standing Orders No. 197 (n) and 198, National Assembly of Zambia Standing Orders, 2021.

3.0 Meetings of the Committee

Your Committee held fourteen meetings during the year under review.

4.0 Programme of Work

At the commencement of the Session the Committee considered and adopted the following programme of work:

(i) consideration of the Action-Taken Report on the Report of the Committee for the Fifth Session of the Twelfth National Assembly;
(ii) consideration of the topical issue: Implementation of the Road Tolling Programme in Zambia;
(iii) local tour to Lusaka, Central and Copperbelt Provinces; and
(iv) consideration and adoption of the Committee's Report for the First Session of the Thirteenth National Assembly.

5.0 Arrangement of the Report

The Committee's Report is in two parts. Part I highlights the written and oral submissions of stakeholders on the topical issue as well as tour findings of the Committee on the topical issue and the observations and recommendations thereon. Part II reviews the Action-Taken Report on the Report of the Committee for the Fifth Session of the Twelfth National Assembly.

6.0 Procedure adopted by the Committee

The Committee sought both written and oral submissions from the relevant Government ministries and agencies, non-state institutions and interested members of the public.

PART I

IMPLEMENTATION OF THE ROAD TOLLING PROGRAMME IN ZAMBIA

7.0 Background to the study

The Government of the Republic of Zambia launched the National Road Tolling Programme in November 2013, pursuant to the *Tolls Act, No. 14 of 2011*. The Act was passed to establish and *inter-alia* provide for the operation of toll roads, charging and collection of tolls, which would form part of the Road Fund to be used exclusively for the construction, maintenance and rehabilitation of roads. To this end, the Seventh National Development Plan (2017-2021) under development outcome six which spoke to improved transport system and infrastructure outlined the Government's strategy to focus on construction and maintenance of road infrastructure to ensure enhanced and safe connectivity across the country and to preserve asset investments. The strategy specifically recognised the importance of the Government to continue developing road tolls and collect road user charges to finance programmes in the road sub-sector.

At inception, the tolling programme was restricted to ten ports of entry and eight weighbridges across the country. It was, however, envisaged that by 2017 the Government would roll out about forty (inland and port of entry) tolling stations, with the objective of exponentially increasing non tax revenues in the form of tolls, which would be channeled towards road maintenance programmes. At the time of this study, the Government operated about thirty-seven toll stations country wide comprising twenty-seven in-land toll stations and ten ports of entry toll stations.

In view of the above, the demand for better road network country wide had continued to increase and had inevitably brought the National Road Toll Programme under the spot light. It was for this reason that the Committee on Transport, Works and Supply undertook a study to scrutinise the implementation of the programme.

8.0 Objectives of the Study

The objectives of the study were to:

(i) appreciate the adequacy of the legal and policy framework that governs the Road Tolling programme;
(ii) gain an insight into how the Government was implementing the programme in terms of roll-out of the toll facilities;
(iii) appreciate the administration of the Road Fund in relation to toll fees and its application to road construction, maintenance and rehabilitation;
(iv) appreciate challenges and opportunities, if any, in the implementation of the programme; and
(v) make recommendations on the way forward.

9.0 Summary of Submissions by Stakeholders

The Committee benefitted from oral and written submissions of stakeholders listed in Appendix II. The submissions of the stakeholders are summarised below.

9.1 Legal and Policy Framework

Stakeholders identified the National Transport Policy (2019) as the key framework that provided for the following:

(i) the creation of a transport fund to finance the development of all transport modes;
(ii) the development of sustainable transport infrastructure through the participation of all stakeholders for effective service delivery and improved access;
(iii) the promotion of the "User Pays Principle" which advocated for all those using a facility to directly pay for usage rather than the cost being shared equally by a community; and
(iv) the financing mechanisms to be used which include fuel levy, road user charges, and tolls.

Stakeholders submitted that the principal legislation that governed the construction, rehabilitation and maintenance of roads included; *the Tolls Act No. 14 of 2011*; *the Public Roads Act, No 12 of 2002*; *the National Road Fund Act, No 13 of 2002*; and *the Road Traffic Act, No 13 of 2002.*

With regard to the inquiry on the tolling programme, the Committee was informed that tolling in Zambia was governed by the legal framework outlined below.

(i) **The *Tolls Act, No. 14 of 2011***, which repealed and replaced the *Tolls Act, 1983* provided for among others, the operation of toll roads; and charging and collection of tolls. The *Tolls Act* mandated the Road Development Agency (RDA) to collect two types of tolls, namely; tolls at border entry points levied on foreign vehicles entering or transiting through Zambia and inland tolls levied on both local and foreign vehicles at inland toll points.

(ii) **Statutory Instrument No. 85 of 2016 – the Tolls Regulations**, which introduced local and frequent user discounts on tolls for motorists and revised the toll tariffs. This was to reduce the cost on tolling for motorists who frequently crossed tolling stations for various reasons.

(iii) **Statutory Instrument No. 74 of 2020- the Tolls (Amendment) Regulation,** which was read as one with the Tolls Regulations, 2016 and revised the tolls on reciprocal basis for the Democratic Republic of Congo registered vehicles and introduced levying of inland toll fees on foreign registered vehicles entering or transiting through Zambia. This meant that foreign vehicles paid tolls both at ports of entry and at inland toll stations.

(iv) **Statutory Instrument No. 27 of 2021- The Tolls (Amendment) Regulations, 2021,** which was also read as one with the Tolls Regulation, 2016 and revised the local user discount rates and also revised the seating capacities of foreign registered motor vehicles.

On the whole, the legal and policy framework was found to be adequate save for the few areas that required to be changed as highlighted herein.

9.2 Implementation of the Tolls Programme in terms of roll-out of the toll facilities

Stakeholders submitted that the road sector had a comprehensive institutional framework comprising of three key sector agencies.

The three sector agencies comprised:

(i) Road Development Agency (RDA) established under the *Public Roads Act, No 12 of 2002*, whose functions were to plan, manage and coordinate the road network in the country. The RDA was responsible for construction, rehabilitation and maintenance of roads as well as overload control. Further, the *Tolls Act, No 14 of 2011* which established and provided for the operation of toll roads, the charging and collection of tolls and for private sector participation in the tolling of roads, designated RDA as the Tolls Authority responsible for the administration and implementation of the provisions of the *Tolls Act*. The *Tolls Act* empowered RDA to appoint any suitable person as a toll collector to perform specified functions.

(ii) National Road Fund Agency (NRFA) established under the *National Road Fund Act, No. 13 of 2002,* whose function was to administer and manage the Road Fund. The NRFA was responsible for resource mobilisation and disbursement to implementing agencies. Based on the provisions of the *Tolls Act*, RDA appointed the NRFA as the lead toll collector to operate all inland toll collection points in the country.

(iii) The Road Transport and Safety Agency (RTSA) established under the *Roads and Road Traffic Act, No 13 of 2002,* whose function was to implement policy on road transport, traffic management and road safety. The RTSA was responsible for the road sector operational regulations and safety enforcement. In exercise of its powers RDA appointed RTSA as the toll agent responsible for collection of tolls at ports of entry.

In addition to the foregoing, the Committee was informed that Local Authorities were designated as roads authorities responsible for construction, rehabilitation, maintenance and care of specific classes of roads in their areas of jurisdiction.

9.3 The Administration of the Road Fund in relation to toll fees and its application to road construction, maintenance and rehabilitation

With respect to the administration of the Road Fund, the Committee was informed that the Road Fund was initially established in 1993 with income from the fuel levy. Currently the Road Fund was administered by the NRFA and it derived its income from the fuel levy, road user charges, weighbridge fines, toll charges, funding from the Treasury through the Ministry of Finance and National Planning and external funds from development and cooperating partners.

The Committee was also acquainted that the NRFA allocated and disbursed funds to various road construction, rehabilitation and maintenance projects and other programmes under RDA, RTSA and Ministry of Local Government and Rural Development, and various road authorities. In this regard, the *Tolls Act* provided for the toll fee or other charge imposed for the use of a toll road to be used exclusively for the construction, maintenance and rehabilitation of roads.

Notwithstanding the provisions of the *Tolls Act*, the Road Fund was a basket of funds from various revenue sources which complicated the use of toll fees exclusively for construction, maintenance and rehabilitation of roads as this would be in conflict with the provisions of the *National Road Fund Act*. In addition, revenue from toll charges was exclusively generated from existing roads that required or would require maintenance or rehabilitation. However, the fact that the *Tolls Act* provided for toll revenue to be used on construction of roads had led to skewed allocation of funds towards development projects with little allocation to maintenance, thereby greatly disadvantaging many roads from which funds were being collected.

With regard to the role of RDA and NRFA in tolls administration, the *Tolls Act* designated the RDA as having the responsibility for the administration and implementation of the provisions of the *Tolls Act*. The functions of the RDA as provided for in the *Tolls Act* were among others; to regulate the operation and maintenance of toll roads; monitor compliance of concessionaires with the terms and conditions of concession agreements; and advise the Minister on the design, construction, safety, regulation, operation and maintenance of toll roads.

The Committee was informed that in terms of section 6(1) of the *Tolls Act, No. 14 of 2011*, the RDA was, on such terms and conditions as it may determine, empowered to appoint any suitable person as a toll collector for purposes of performing and fulfilling the provisions of the *Tolls Act*. Premised on this provision, the RDA appointed the NRFA as lead tolls agent. The decision was reached through a Memorandum of Understanding (MoU) that was signed between the two agencies. The NRFA was thus an agent of RDA insofar as the collection of toll fees was concerned. The RDA was the leading authority in the administration of the National Tolling Programme regarding the following:

(i) road infrastructure development;

(ii) design and construction of toll plazas; and

(iii) development of the ICT infrastructure system to support payment and receipt of toll fees.

The Committee was informed that the National Tolling Programme objectives were an off shoot of the enactment of the, Public *Roads Act, No. 12 of 2002*, which gave birth to the RDA. The main purpose was to raise finances for providing care, maintenance and construction of public roads in Zambia and to also regulate maximum weights permissible for transmission on roads. The Committee was further informed that Zambia had a total classified road network of 67,671 Kilometres of public roads. The RDA had identified 40,454 Kilometres from the classified network as the core road network, which was the minimum network required to spur economic development and therefore, required to be in maintainable condition at all times.

With respect to road maintenance initiatives through use of toll fees, the Committee learnt that in 2015 the RDA launched the Road Maintenance Strategy, which was a ten-year plan covering the period 2015-2024. The Road Maintenance Strategy was formulated to set a pathway for the provision of maintenance activities on the core road network. It was hoped that the initiative would create an atmosphere that guaranteed long term economic development through the construction and maintenance of the core road network.

Stakeholders further submitted that *Statutory Instrument No. 74 of 2020* prescribed the toll fees structure for the different types of vehicles. The design of the tariffs/toll fees

showed a direct link between the weight of the vehicle and the toll fee. The heavier the vehicle was, the higher the toll fee charged on it. The design of the toll fee, therefore, took into account the impact of the axle load on the design life of the road. Thus, vehicles that placed a high burden on the road network paid toll fees that were proportionate to the damage they inflicted on the road. Thus, toll fees had embraced the "User Pay Principle".

9.4 Challenges in the implementation of the National Tolling Programme

The stakeholders highlighted some challenges in the Road Tolling Programme as set out hereunder.

(i) Progress on the roll out of toll station infrastructure had been slower than planned due to insufficient disbursement of funds allocated to construction of toll facilities and acquisition of land beyond the road reserve.

(ii) The outbreak of COVID 19 affected not only the revenue collection due to drop in traffic as a result of cross-border closures and reduction in business activities, but increased the cost of operation of toll facilities due to acquisition of protective kits and disinfection measures in order to prevent the spread of the disease;

(iii) A few number of accidents had been recorded at some toll facilities, (for example at Sabina) resulting in casualties, due to reckless driving by some road users. This required expansion of receiving lanes at toll stations;

(iv) Some tolled roads were in a deplorable state or not well maintained. This risked the good will and acceptance to pay the toll fees by some motorists.

(v) There was slow or little progress in involving private concessionaires in the implementation of the tolling programme in order to reduce inefficiencies and cost of operations through integration of new technologies and capital.

(vi) Funds collected from road tolls, which formed part of the road fund, were directly deposited into the Single Treasury Account (control-99) and thus mingled with all state funds, thereby making it difficult to segregate the Road Fund and access it for its intended purpose of road construction, maintenance and rehabilitation.

(vii) The Road Maintenance Strategy, which was launched by RDA in 2015 to foster road maintenance of the core road network, was not fully implemented. This resulted in the deteriorating of many public roads.

9.5 Recommendations and way forward for efficient and effective implementation of the National Tolling Programme

Some of the stakeholders were of the view that certain portions of the *Tolls Act* needed to be amended to improve the Tolling Programme in general and its administration and management in particular. They therefore, recommended as set out below.

(i) Section 17(a) of the *Tolls Act*, which read in part; that the Agency (RDA) would apply the money from the road fund in the construction, maintenance and care of public roads, should be amended to single out proceeds of the toll fees, such that a percentage of the tolls collected from a toll facility would be utilised for maintaining the tolled road.

(ii) The Act should be amended in section 5, to broaden the roles of the Inspectorate Unit to cover technical aspects of the tolled road in ensuring that the road infrastructure met the minimum service levels as outlined in the service level agreements or key performance indicators.

(iii) The Act should be revised to enhance the accountability of RDA with regard to the service levels provided on tolled roads in relation to the funds collected from toll fees and allocated to the toll roads. RDA should annually specify the target service levels for tolled roads to which it shall be held accountable.

(iv) The Act should also provide for the Minister to specify through a Statutory Instrument an amount to be set aside from tolls collected for corporate social responsibility by the Tolls Authority in areas where toll facilities were located. This would further improve the perception and appreciation of the toll facilities by local communities.

(v) The concept of one basket of the Road Fund required to be reviewed in order to sustain and support the User Pay Principle by road users. A Statutory Instrument would do good to address the matter of allocation of funds between maintenance, rehabilitation and construction.

(vi) There was need to accelerate the involvement of the private sector in the implementation of the Tolling Programme in order to reduce inefficiencies and cost of operations through integration of new technologies by private players.

(vii) Section 6(2) of the *Tolls Act* provides that "A toll collector shall remit to the Agency (RDA) any toll collected in such manner as the Minister may prescribe". However, in practice this did not happen as toll fees collected by appointed toll collectors were deposited directly to the Treasury account controlled by the Ministry of Finance and National Planning. It was, recommended that the provisions of section

6(2) be enforceable or amended to suit the current collection and deposit processes of funds.

(viii) The use of e-toll cards should be enhanced by the NRFA so as to reduce cash handling at toll stations. Alternative payment methods such as mobile money and point of sale machines should also be introduced.

10.0 Local Tour Report

In order to augment its study, the Committee undertook a local tour which necessitated visits to selected in-land and port of entry toll stations in Lusaka, Central and Copperbelt Province.

The local tour was preceded by a meeting with the three main Agencies that manage the road sector, namely; NRFA, RDA and RTSA. During the meeting at NRFA, the Committee was given a tour debriefing in which it was stated that the National Road Tolling Program was launched in November 2011 in two phases. The first phase commissioned the collection of tolls from heavy goods vehicles at gazetted weighbridges. RDA as the tolls authority was managing the collection of tolls from November, 2013 to September, 2015 when the NRFA was appointed by RDA as the lead tolls agent. Following the completion of the construction of designated inland toll stations, the tolling operations from the weighbridges had since been migrated to the inland toll stations.

The number of toll stations for Phase I and II had increased over the years. The increment had been from two conventional inland toll stations in 2016 to twenty- seven in 2021. The total number of toll stations was thirty-seven as at the end of 2021, comprising twenty-seven inland toll stations and ten ports of entry. Further, the Committee was informed that toll collection at ports of entry was managed by the RTSA as a tolls agent appointed by RDA.

The Committee was informed that the twenty-seven inland toll stations were placed in categories (A, B and C) depending on the traffic volumes processed. There were currently seven in class A, ten in class B and ten in class C toll stations. Class A stations processed 3,000 or more vehicles per day, Class B stations processed between 800 and 2999 vehicles, while Class C stations processed between 250 and 799. After the briefing the committee was shown the central control room where almost all the toll stations across the country were monitored in real time, through closed circuit television (CCTV).

10.1 Visit to Shimabala Toll Plaza

The Shimabala toll station was commissioned in 2017 as a class A toll station and was one of the busiest in the country. It was managed by a station manager supported by

adequate staffing levels and security personnel from the Zambia Police Service. The toll station processed about 9000 vehicles per day and collected revenues of approximately ZMK 9 Million per month. Collections were done on cash basis or e-tolls only as they were no other alternative payment methods.

The station was connected to the ZESCO grid and also had back-up from solar energy and diesel powered generator. In terms of traffic, the station experienced traffic congestion especially during traffic peak hours due to narrow receiving lanes. This was compounded by the few payment booths, which required urgent expansion.

10.2 Visit to Chongwe Toll Station

The Chongwe toll station was commissioned in 2017 and was categorized in class A. it had a staff compliment of twenty-seven and nine Zambia Police personnel. It processed an average of about 4,500 vehicles per day with monthly collections of approximately ZMK 3.6 Million. The mode of collection was through cash or e-toll system although the e-toll was fairly new and was still being rolled out. The station had similar energy sources as those of Shimabala toll station.

10.3 Visit to Katuba Toll Plaza

The Katuba toll station was commissioned in 2017 and was categorized as a class A toll station. The toll station was situated on one of the busiest highways (between Lusaka and Kabwe) and it processed an average of about 6,300 vehicles per day with monthly collections of approximately ZMK 10.5 Million. Despite the amount of revenues collected as toll fees, the road infrastructure leading to the toll station had continued to deteriorate as it had never been maintained since installation and commissioning. The station was well manned and secured as it had sufficient staffing levels.

10.4 Visit to Manyumbi Toll Plaza

The Committee learnt that Manyumbi toll plaza was one of the first to be opened in 2016 and handled about 4500 vehicles per day with monthly collections of about ZMK 9.6 Million. The road to the toll station was in a deplorable state as it had never received any maintenance since the plaza was erected.

The station had a unique feature in that it operated on solar energy generating a total of 45 kilowatt. The main power supply from ZESCO was used as secondary source, while power from a generator was the last option. The Committee learnt that the toll station had the capacity to supply 15 kilowatt into the main grid or use it to power surrounding communities.

The Committee also learnt that there were differences in terms of the ICT infrastructure used to support payment and receipt of toll fees at the different toll stations across the

country because they were installed by different system operators that had been contracted to develop the systems as part of the construction contracts for different toll stations. To this end, NRFA had identified that the system installed by NECOR, a Zambian owned company had proved to be the best and most efficient to deal with the processing of payments and receipts, including keeping tabs on frequent user payments/discounts. The other systems were not as reliable as NECOR as they had no capacity to track frequent users of toll facilities and also required constant maintenance.

10.5 Visit to Kafulafuta Toll Plaza

Like Manyumbi toll station, Kafulafuta toll station was opened in 2016 on the Kapiri-Ndola road. The toll station, which was in category 'A' generated about ZMK9.9 Million per month in toll fees. The Committee noted that the state of the road between Kapirimposhi and Ndola was in a deplorable state and had reached impassable proportions around the toll station. This had resulted in slowing down of traffic and impacted the turn-around time of processing payments for trucks and buses, which were the majority type of vehicles passing through the plaza.

10.6 Visit to Michael Chilufya Sata (MCS) Toll Plaza

The MCS plaza was opened in 2018 and is located on the Ndola-Kitwe dual carriage way. The station is the largest and is classified in category 'A'. About 9,900 motor vehicles passed through the toll gate on a daily basis with 30 to 34 per cent of them being heavy goods vehicles destined for the mines and the Democratic Republic of Congo (DRC). The station generated revenues of about ZMK 12 Million per month.

The Committee questioned why the roads had remained in a poor state despite the NRFA collecting colossal amounts in toll fees per month. The Committee learnt that the country was heavily indebted in the road construction sector, to the tune of about ZMK 10 Billion. Contractors had worked and presented performance certificates, but funds were thinly spread across to reduce the debt burden. The Government could not embark on new road construction or maintenance works, unless the outstanding debt was dismantled.

10.7 Visit to Wilson Mofya Chakulya (WMC) Toll Station

Opened in 2019 WMC toll station was classified in category A and was able to handle a daily traffic volume of about 10,000 per day, with approximate monthly collections of about ZMK 7 Million. Like other toll stations, it experienced the challenge of lack of alternative paying systems like mobile money and point-of-sale machines, which greatly inconvenienced the travelling public. The station was installed with a system that was difficult to operate as it misclassified certain categories of vehicles and could

not recognise categories of vehicles that were due for incentives such as frequent user discounts.

10.8 Visit to Sabina Toll Station

Opened in 2021 and categorized in class 'B', the Sabina toll station was situated on the Kitwe-Sabina Road. The toll station was yet to be fully completed as it did not have a parameter wall and paved car park. The station also required slight expansion of the receiving lanes as it experienced congestion during peak periods. The Committee learnt that due to the narrow receiving lanes there had been an accident involving a truck, which left a booth completely damaged and a toll collector injured.

Most of the traffic on the Sabina road consisted of heavy goods vehicles, which were deviated from Kitwe's Independence road leading to the WMC toll station. The traffic volume therefore, at the Sabina toll gate was about 2300 per day with a revenue return of ZMK 6.6 Million per month.

The committee also learnt that Chibuluma road in Kitwe which fed traffic from the mines to Sabina toll station was in a deplorable state and this indirectly heightened theft of cargo from the trucks as they had to move very slowly to navigate the huge craters and pot holes on the road.

10.9 Visit to Mpongwe Toll Station

The Mpongwe toll station was categorized in class 'C' and was situated on the Luanshya-Mpongwe road in Copperbelt rural. Being in class C meant that traffic volumes were extremely low and revenues collected per month did not exceed ZMK 330,000. Further, the station used a small building as office space and did not have booths from where tolls could be paid. This meant that clients had to step out of the vehicles to pay toll fees irrespective of the whether condition. The Committee noted that the station was not secured with a parameter fence and was surrounded by bushes, thereby posing a security risk. The Mpongwe road had generally not been maintained and thus pot holes had developed in most portions of the road including near the toll station.

As part of its local tour programme, the committee held five stakeholder meetings and visited two ports of entry, namely; Mufulira/Mokambo and Chililabombwe/Kasumbalesa Border controls. The findings are as outlined below.

10.10 Stakeholders meeting in Ndola

After paying a courtesy call on the Copperbelt Province Minister, the Committee held a stakeholders meeting at the Ndola City Council chamber. The meeting was attended by the Mayor of Ndola City, Council officials, and officials from the three road sector

agencies, Ndola Chamber of Commerce, Petroleum Association and representatives of various associations in the transport sector drawn from transporters, truckers, bus and taxi owners as well as bus and taxi drivers. The main highlights of the meeting were as follows:

(i) The local authority was designated by law to maintain township roads, but was failing to do so because the demand to maintain roads could not be met from locally generated resources. There was, therefore, need for the local authority to tap into resources generated from toll facilities situated within its jurisdiction;

(ii) The main roads in Ndola district leading to the toll stations were in a deplorable state and had not received any attention in terms of rehabilitation or maintenance. Stakeholders particularly pointed out the poor state of the road from Kafulafuta toll station into the TAZAMA terminal where fuel products were loaded. It was pointed out that the poor state of the road had greatly affected fuel transporters who had to incur huge costs due to prolonged turn-around time of delivery of their products to markets;

(iii) The continued charging of toll fees on roads that were dilapidated was considered to be an infringement of consumer rights especially that motorists could not opt out as they were compelled by law to pay the toll fees;

(iv) There were a lot of over loaded trucks and tippers (especially foreign owned) that went under the radar of RDA and contributed massively to the damage of roads. To avert this, the RTSA required to be empowered through a Statutory Instrument to be checking the tonnage of trucks coming from outside Zambia. Further, there was need by the RDA to place weighbridges at Sabina and Kasumbalesa for purposes of checking the weights of foreign owned trucks so that they could be charged the appropriate fees in line with the user pays principle;

(v) There was need to urgently rehabilitate the Ndola-Mufulira road to decongest the Ndola-Kitwe dual carriage way and shorten the distance for transporters destined for Mokambo Border post;

(vi) There was need to concession to the private sector the management of some toll stations in order to inject some capital in the road sector, required for road rehabilitation and maintenance as Government control through the three road sector Agencies had failed to yielded the desired good roads;

(vii) The toll fee was another form of tax imposed on transporters in addition to road tax, operating licences, presumptive tax and other taxes paid to the council in bus and taxi stations;

(viii) In reciprocity of the overcharging of foreign trucks in DRC, a Statutory Instrument was issued to impose similar fees as DRC, but it was extended to other SADC Countries, like Mozambique. This prompted Mozambique to also reciprocate thereby increasing the cost of doing business for the Zambian transporters; and

(ix) Given the current poor state of the main trunk roads, Zambia's dream of becoming the transport hub of the region remained a pipe dream. This could only be achieved if the current road infrastructure was rehabilited. In addition, there was need to put in place a law to enable councils and the private sector to construct and manage truck parks to provide amenities to trucks traversing the region via Zambia. This could also potentially be a revenue source for councils.

10.11 Stakeholders meeting in Kitwe

After paying a courtesy call on the Kitwe District Commissioner, the Committee held a stakeholders meeting at the Kitwe City Council chamber. The meeting was attended by Council officials and officials from the three road Agencies, and representatives of various associations in the transport sector drawn from transporters, truckers, bus and taxi owners as well as bus drivers. The main highlights of the meeting were as follows:

(i) being a mining town, Kitwe had suffered serious damage to its urban roads due to heavy trucks laden with copper and other minerals destined for export. In particular, Independence and Chibuluma roads were cited as key economic roads that were in a deplorable state with no prospects of repair;

(ii) bus owners and drivers of 29 seater buses noted that the difference in toll fees between theirs and the 60 seater buses was only K10. The 29 seater buses were charged K40, while the 60 seater buses/coaches were charged K50. They submitted that based on the 'user pays' principle, they should be given a reduction that was cost reflective;

(iii) there was an increased number of private motor vehicles that were operating as PSVs (pirates), thereby denying the government of the appropriate road fund. Pirate taxis and buses had also affected the registered vehicles in terms of revenues because they were not subjected to paying the required taxes and license fees, which registered vehicles, were required to pay.

10.12 Stakeholders meeting in Mufulira and Visit to Mokambo Border Control

After paying a courtesy call on the Mufulira District Commissioner, the Committee proceeded to Mokambo Border for a stakeholders meeting. The meeting was attended by Mufulira District and Council officials and officials from the three road Agencies as well as Border officials from ZRA and Immigration.

The main highlights of the meeting were as follows:

(i) the road to Mokambo border was in a bad state to the extent that during the rainy season it became impassable for some vehicles, while others like trucks and buses got stuck. This was notwithstanding the fact that tolls were being paid at the border;

(ii) the DRC side of the border had made great improvements on the road network including the stretch from Mokambo to Sakanya, which borders Ndola. In this regard transporters were opting to avoid using the Mokambo border, hence depriving the Zambian Government of revenue;

(iii) the Ndola/Mufulira road had remained in a state of disrepair for many years now. There was urgent need to repair this road and place a toll facility on it to increase revenue collection for the Government. This road would also decongest the Ndola/Kitwe dual carriage way as traffic coming from the south headed for DRC via Mokambo would use this more direct route;

(iv) the collection of toll fees at the border had been assigned to RTSA. The Agency, however, did not have proper office accommodation (operated from a container), reliable transport, security, or computerised system to administer and manage the collection of tolls. The office was only manned by one officer and did not have a back-up source of electricity in the event of power outages; and

(v) the road at the border required to be expanded as was the case on the DRC side. This was currently not possible because the land along the road reserve belonged to Mopani Mine and not RDA.

10.13 Stakeholders meeting in Chingola

After paying a courtesy call on the office of the District Commissioner, the Committee proceeded to hold a stakeholders meeting at Chingola Council Chambers. The meeting was attended by Chingola District and Council officials and officials from the three road sector agencies as well as representatives of the chamber of commerce.

The main highlights of the meeting were as follows:

(i) there was no maintenance of the Kitwe/Chingola dual carriage way from toll proceeds, as the road had started to show signs of disintegration;

(ii) the Kitwe/Chingola dual carriage did not have road markings in some portions, despite motorists paying toll fees at Wilson Mofya Chakulya toll station;

(iii) long queues of trucks had formed on the dual carriage way from Chambishi all the way to Kasumbalesa border due to inordinate delays in clearing trucks at the border and the poor state of the Kasumbalesa road;

(iv) the local RTSA office was not well equipped with transport and yet it was required to carry out traffic control and decongestion operations in view of the huge volumes of trucks along the main road leading to Chililabombwe;

(v) there was no proper coordination between RDA and RTSA to inspect over loaded trucks, especially foreign ones for collection of appropriate fees; and

(vi) there was need to extend the dual carriage way from Chingola to Kasumbalesa via Chililabombwe so as to decongest the road leading to the border with DRC.

10.14 Stakeholders meeting in Chililabombwe and visit to Kasumbalesa Border Control

After paying a courtesy call on the Chililabombwe District Commissioner, the Committee proceeded to Kasumbalesa border post for a stakeholders meeting. The meeting was attended by District and Council officials and officials from the three road sector agencies, representatives of transporters associations, truck drivers and officials from ZRA and Immigration. The main highlights of the meeting were as follows:

(i) the state of the road from Chililabombwe to Kasumbalesa was in a deplorable state and during the rainy season it became worse and impassable in some portions;

(ii) as a long term solution to addressing the poor state of the road and the problem of congestion, there was need to upgrade the road to a dual carriage way as it was one of the most important economical roads in the country, which led to Zambia's biggest market in the DRC;

(iii) as a short term measure, there was need to patch up the pot holes on the road or carry out major maintenance works;

(iv) there was need to harmonise working hours on both sides of the border in order to decongest the border;

(v) there was need to expand the parking area at the border as it would also help to decongest the border area; and

(vi) there was urgent need for the two governments to engage and come up with a Bilateral Transport Agreement to iron out some of the challenges experienced by Zambian transporters such as overcharging of toll fees.

11.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Based on the stakeholder's submissions and the local tour undertaken, the Committee makes the following observations and recommendations:

(i) the Committee observes that a number of stakeholders have called for the revision of the *Tolls Act, No. 14 of 2011*. The Committee recommends that the Act should be subjected to necessary review processes so as to improve the management and administration of the Tolling Programme and the Road Fund;

(ii) the Committee observes that most toll stations were constructed on roads that were in a bad state or had not undergone any improvements or refurbishment prior to the installation of the toll plazas. To this end, the Committee recommends that the RDA should prioritise refurbishing and maintaining roads where there are toll stations, so as to promote acceptability of payment of tolls by motorists. The Committee also recommends that future toll station construction projects should only be embarked on after the roads earmarked for tolling had been rehabilitated;

(iii) the Committee observes that road maintenance has been neglected as a component under the Road Fund, resulting in a general poor state of trunk roads. The Committee further observes that of the total classified road network of about 67,671 Km of public roads 40,454 Km was identified as the core road network, which was supposed to be maintained under the Road Maintenance Strategy (2015-2024). However, due to failure to implement the strategy, most of the core road network was in a bad state. The Committee recommends that modalities be worked out by the RDA and NRFA to ensure that a significant portion of the road tolls were allocated to road maintenance;

(iv) the Committee observes that toll revenues are deposited directly in the Government Treasury (control 99) and would later be released indirectly to NRFA through the Ministry of Finance and National Planning to meet the obligations from contractors and consultants as they fell due. NRFA was, therefore, unable to leverage these resources for additional financing to support the Government's ambitions of road infrastructure development as these revenues were recognised as part of the Central Government revenues. The Committee recommends that the Government should consider allowing the resources from the toll fees to be remitted directly to the Road Fund for road infrastructure maintenance and development; and

(v) the Committee observes that road construction, rehabilitation and maintenance need huge capital outlays, hence the requirement by section 11 of the *Tolls Act* to restrict the use of toll funds, exclusively for this purpose. Notwithstanding this provision, the Committee observes that the portion of the road fund from tolls collections is not adequate to meet the current demands of road construction,

rehabilitation and maintenance. In this regard, the Committee recommends that as a means to raise the much needed finances for construction, maintenance and rehabilitation of roads, the relevant line ministries should pursue private sector involvement through Public, Private, Partnerships (PPPs) or concessions to manage tolls on some roads.

Having visited the toll stations of different classes as highlighted above, the Committee makes the following observations and recommendations:

(i) the Committee observes that as part of the Road Fund, the toll fees were not adequate to meet the rehabilitation and maintenance needs of the roads visited. Cognizant of the contractual over commitments in the road construction sector, the Committee recommends that the Government should seriously consider entering into concession agreements on some tolled roads through PPPs, in order to leverage on private sector financing for construction, rehabilitation and maintenance of roads;

(ii) while appreciating that the government was highly indebted to contractors in the road construction sector, the Committee observes that there was urgent need to upgrade the Lusaka to Ndola road into a dual carriage way. This road had three toll stations (Katuba, Manyumbi & Kafulafuta), with the highest toll collections per month. The Committee urges the Government to prioritise the upgrading and construction of this road as it was a very important economic road to the country;

(iii) the Committee observes that some toll stations such as Shimabala and Sabina were experiencing congestion during peak hours, partly due to narrow receiving lanes. The Committee recommends that receiving lanes at the two toll stations should be widened;

(iv) the Committee recognises that some tolled roads required maintenance such as pot-hole patching to enhance toll collections. This was particularly the case with Luanshya/Mpongwe and Kitwe/Mufulira roads. The Committee, therefore, recommends that the RDA should urgently undertake some maintenance works on these roads to avoid them getting damaged to the extent that they would require a more expensive complete rehabilitation exercise;

(v) the Committee observes that the Mpongwe toll facility (Class C) was housed in a small office space without booths for collection of toll fees. Officers working at the station were subjected to elements of the weather as they carried out their work. The Committee recommends that the NRFA should urgently provide sufficient office shelter for their officials so that they could administer the collection of tolls properly and safely the Committee also recommends for the installation of booths so that motorists could pay from the comfort of their vehicles rather;

(vi) the Committee observes that despite being provided with state security, some toll stations were surrounded by over grown vegetation, which posed a security risk to toll collectors. The Committee urges the NRFA to ensure that this risk was mitigated by cutting or trimming of vegetation around the toll stations. Mpongwe and Manyumbi toll stations were a case in point;

(vii) the Committee observes and commends the fact that most toll stations visited had three sources of energy for their operation. It further observes that Manyumbi toll plaza operated on solar energy with potential to supply into the main grid or surrounding areas. The Committee recommends that NRFA should engage the Rural Electrification Authority (REA) with a view to working out modalities of supplying the surrounding rural settlements; and

(viii) the Committee observes that different toll stations had separate ICT operating systems for collection of tolls, which were installed by different companies that were contracted to build the toll facilities. In this regard, some toll stations experienced some technical challenges in the administration of the tolling programme. It was noted, however, that the system installed by a Zambian Company called NECOR was the most reliable and outperformed those installed by foreign companies. The Committee, therefore, recommends that the NRFA should, as a matter of urgency, consider installing the NECOR system on all its toll facilities to avoid the frequent malfunctions which led to revenue loss.

With regard to the stakeholders meetings which the Committee held in Ndola, Kitwe, and Chingola, the Committee makes the following observations and recommendations:

(i) the Committee observes that transporters of various goods and services felt over-burdened with the continued payment of toll fees without corresponding improvements in the state of the roads. The toll fees were paid in addition to road tax, operating licenses, presumptive tax and other taxes paid to the local authorities. In view of this, the Committee recommends that the RDA should, in the interim, prioritise the repairing of the access road to TAZAMA oil Company, which was heavily used by fuel transporters as well as Chibuluma and Independence roads in Kitwe, which were used by trucks and buses to access the Sabina and Wilson Mofya Chakulya toll stations. The Committee wishes to emphasise that the repair of Chibuluma road was of utmost importance in view of the high rate of thefts of copper and other cargo from trucks;

(ii) the Committee observes that the councils, which are designated as the Local Roads Authorities did not have sufficient local revenues to carry out maintenance of township or urban roads within their jurisdictions. This was juxtaposed with the constitutional provision, particularly Article 147(2) annex 'C', which designated the tolling function to local councils. The Committee recommends that the NRFA should seek interpretation of this constitutional provision from the Attorney

General's Chambers, in view of the apparent conflict with the Road Tolling Act, No. 14 of 2011;

(iii) the Committee observes that there were a lot of private vehicles pirating as public service vehicles, especially in Kitwe, at the expense of registered buses and taxis. Such practices denied the government of the much needed revenue in the Road Fund as these vehicles avoided to pay the appropriate taxes and fees. The Committee recommends that the RTSA should collaborate with the Zambia Police Service to bring this practice to an end as it deprived the government of the much needed revenues in the road sector;

(iv) the Committee observes that the Ndola/Mufulira road had remained in a state of disrepair for a long time now; hence motorists from Ndola destined for Mufulira and beyond, opted to use a much longer route via Kitwe. The Committee recommends that repair works should be undertaken on this important road as it was a get-way to DRC via Mokambo border post;

(v) the Committee observes that there was massive traffic congestion by trucks on the Kitwe/Chingola road from Chambeshi all the way to the border at Kasumbalesa. The Committee agrees with the stakeholders and recommends that there was need to upgrade the Chingola/Chililabombwe road to a dual carriage way as this was an important road leading to one of Zambia's biggest markets;

(vi) the Committee agrees with the stakeholders that although Zambia was strategically located in the region as a land linked country, it could not realize the dream of being a transport hub because of the poor state of its road infrastructure, particularly the core road network. The Committee reiterates the need to prioritise the upgrading of the public road network where toll stations were located;

(vii) the Committee observes that the heavy congestion on the main highways was partly due to the lack of proper or designated parking areas for trucks. The Committee urges the Government to put in place the appropriate legal framework to support the establishment of truck parks by the private sector and local authorities, as a revenue generating measure.

Having visited Mokambo and Kasumbalesa border controls, the Committee makes the following observations and recommendations:

(i) the Committee observes that despite tolls being collected at the border, the Mufulira/Mokambo road was in a bad state and became impassable during the rainy season. The Committee urges the Government through the RDA to institute both short term and long term measures to repair the road as it was an important road for commerce and trade between Zambia and DRC;

(ii) the Committee observes that road expansion at Mokambo could not be implemented because the land along the road reserve belonged to Mopani Mine. The Committee recommends that the Ministry of Infrastructure, Housing and Urban Development should engage Mopani Mine with a view to working out a solution for the alienation of some land along the road reserve to cater for road expansion;

(iii) the Committee observes that the DRC side of the border had made great improvements on the road network including the stretch from Mokambo to Sakanya, which borders Ndola. In this regard transporters were opting to avoid using the Mokambo border, hence depriving the Zambian Government of revenue. The Committee recommends that as a stop gap measure, RDA should consider commencing the collection of tolls at Sakanya/Ndola Border;

(iv) the Committee observes that RTSA is the toll collection Agent for RDA at Mokambo border. The Committee observes that RTSA was operating from a container, did not have adequate staff complement and transportation and is using manual receipts to process payments. The Committee recommends that this state of affairs should be improved including bringing the collection of tolls onto an electronic platform;

(v) the Committee observes that the border area on the Zambian side did not have adequate space for parking because some of the land had been encroached. The Committee recommends that the relevant Ministry should engage the Congolese authorities to address the problem of encroachment of boundaries; and

(vi) regarding the Kasumbalesa border control, the Committee observes that a chain of trucks had formed from the Kitwe/Chingola dual carriage way all the way to Kasumbalesa via Chililabombwe. This was attributed to the poor state of the road from Chingola to Kasumbalesa, lack of truck parks along the route, limited parking space on the Zambian side of the border and different working times on either side of the border. While the Zambian side operated from 6am to 6pm, the Congolese side operated from 9am to 4pm. In view of these challenges, the Committee recommends the upgrading to a dual carriage way of the road from Chingola to Kasumbalesa, setting up of truck parks by the local authorities in conjunction with private sector and engagement between the two sides through the relevant line Ministries to come up with a bilateral transport Agreement that would iron out some of the observed bottle necks that were slowing down the smooth flow of goods and services between the two countries.

12.0 Foreign Tour Report

In line with its Programme of Work, the Committee undertook its foreign tour to Harare in Zimbabwe from Sunday 15th to Saturday 21st May 2022. The main object of the tour was to share best practices in the participation of local contractors in the construction

industry. The Committee had carried out an in-depth study of the topic during the Fifth Session of the Twelfth National Assembly. However, the topic still remained active in the Committee's Action Taken Report. It was, therefore, important to buttress the local information earlier obtained with best practices in the Southern African Region.

During the tour, the Committee visited the following projects listed hereunder.

(i) Robert Mugabe International Airport.

(ii) Harare to Beit Bridge Road Works.

(iii) Mbudzi Interchange Roundabout.

(iv) Norton Tollgate.

The Committee also held meetings with the following stakeholders listed hereunder.

(i) The President of the Republic of Zimbabwe.

(ii) The Speaker of the Parliament of Zimbabwe.

(iii) The Zimbabwe Parliamentary Committee on Transport and Infrastructure Development.

(iv) The Permanent Secretary in the Ministry of Transport and Infrastructure Development.

(v) Directors of local Zimbabwean Construction companies working on the Harare – Masvingo -Beit Bridge Roads.

The Committee was informed that following the land reforms, development partners who were initially involved in the construction and maintenance of infrastructure left the country. Hyperinflation kicked in and the country went into survival mode with infrastructure development and maintenance taking the back seat. This resulted in water shortages due to equipment breakdown, deterioration of the roads due to lack of maintenance and poor state of airport infrastructure due to none upgrading and re – equipping. The Government of National Unity came in and prioritised the construction of housing. However, the only option was to use local constructors as the funding was not adequate to lure foreign constructors.

The Committee learnt that the Ministry of Transport and Infrastructural Development was mandated to formulate, implement, provide and oversee the management and provision of transport services and development of transport infrastructure in the

country. The Ministry was tasked with the formulation of policy measures to promote the participation of local constructors. Policy measures listed below were put in place.

(i) Due to inadequate equipment amongst the local contractors, the Government resorted to hiring out equipment to the local contractors. The Government hired and employed contractors under direct Government expertise. The hiring rates were deliberately forty percent higher than the SADC Region average to encourage procurement of more equipment.

(ii) To enable regulation and maintenance of standards, the local contractors were encouraged to register for membership with an association such as the Zimbabwe Building Contractors Association.

(iii) Procurement on Government funded projects was restricted to the locals who were compliant with the measures that had been put in place by the Government.

(iv) Local contractors were allowed to bring in construction equipment duty free in order to improve capacity.

(v) Foreign firms were only to be engaged as a last resort or in cases where locals did not have the expertise. The best, even in such cases, was to partner the engaged foreigners with locals for skills and technology impartation.

(vi) Commercialisation of the Central Mechanical Equipment Department (CMED) to provide cost effective and affordable transport to Government ministries, departments, individuals and the private sector. The company hired out vehicles, heavy equipment, motorcycles and vessels to various arms of the Government and the general public and repaired and maintained the same. This initiative allowed the local contractors access to equipment at an affordable rate.

The Committee was informed that in addition to the above policy measures, the country was guided by robust economic blueprints including the National Development Strategy 1. The Government of Zimbabwe had embarked on unprecedented infrastructure development in line with its aspirations to transform the country into an upper-middle-income economy by 2030.

Several of the projects, including the Harare-Masvingo-Beitbridge Road were being financed by domestic resources from the national budget.

The Committee learnt that apart from saving financial resources, using local companies for construction projects had helped create employment for graduates in various fields related to construction. The Committee was informed that local construction companies tended to use locally available resources for their projects, as compared to foreign companies that usually imported the raw materials and other resources, including

labour. Officials for the local companies in most cases understood the local culture; hence there was less conflict with communities in which they implemented the projects.

Cultural differences and lack of respect for local culture was actually an impediment to the successful implementation of construction projects. The Committee was informed that often time locals resisted certain projects because some rituals were not done before the commencement of works, or because the project implementers were desecrating important cultural places.

The Committee noted that whilst in the past local companies were failing to breakthrough in clinching business opportunities; the situation had changed because Government policies now favoured the use of local resources and expertise in undertaking development projects.

During the tour of the various projects being undertaken by the local contractors, the Committee observed that the local companies had gained a competitive edge and that they were carrying out their assignments efficiently. The local contractors had also managed to acquire state of the art equipment. This had bolstered the Government's trust in local skills, especially in the fields of engineering, architecture and surveying.

The Committee noted with interest a joint venture initiative by the following three local constructing companies: Tensor Construction; Fossil Contracting; and Masimba Holdings.

All the three companies were reputable and had come together to form TEFOMA for the construction of the Mbudzi Traffic Interchange Flyover in southern Harare.

TEFOMA had been appointed the engineering, procurement and construction contractor for the project and other local contractors were subcontracted to perform various other works.

The Committee learnt that TEFOMA was also a vehicle for raising funds from local banks by being hedged by the Government.

The Committee was informed that the five local companies (Tensor Systems, Fossil Contracting, Exodus and Company, Masimba Construction and Bitumen World) were rehabilitating the Harare-Masvingo-Beitbridge Highway in a show of confidence for local expertise by the Government. The highway linked Zimbabwe with its largest trading partner South Africa and also other African countries to the north.

The Committee learnt that the local construction industry was thriving in Zimbabwe due to political will stemming from the Presidency which had a passion for local growth and development through the support of various innovations in the local universities

and colleges. Taking advantage of this high level support from the presidency, university students were credited with innovations such as drones, centre pivots and engines that were being used to enhance local industries.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

The Committee observes that the Government of Zimbabwe had put in place the necessary policy framework to encourage and maximise local contractors' participation in the construction industry. The Government had entrusted local companies with big construction projects, which had seen the industry grow tremendously and contribute to economic growth of the country. Consequently the local contractors had continued to build their capacities to undertake huge capital projects using locally produced materials and labour.

In view of the above, the Committee recommends that Zambia can learn from Zimbabwe by enhancing the existing legal and policy strategies to ensure that local contractors are recognised and supported to thrive and to take on more construction projects. Further, the Committee recommends that the Government should place emphasis on enhancing local capacities so that local contractors can begin to take up big construction projects as was the case in Zimbabwe. In this regard, local construction companies should be facilitated to access affordable financing so that they can expand their businesses and be able to compete favourably with foreign contractors.

PART II

13.0 CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON TRANSPORT, WORKS AND SUPPLY FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

The previous Committee had considered the following topical issue: ***Participation of Local Contractors in the Zambian Construction Industry – Opportunities and Challenges***

i. Broad-Based Economic Empowerment

The previous Committee had observed that some foreign firms had been using locals as fronts, just to benefit from the available incentives. The Committee was also concerned that the three 'citizen' companies in *The Public Procurement Act and Citizens Economic Empowerment Act* allowed a foreign company to simply provide a citizen with a minimal shareholding in order to qualify to become a 'citizen' company. Thus, the reserved projects continued to end up being awarded to foreign companies.

The Committee had, therefore, urged the Government to amend the *Citizen Economic Empowerment Commission Act* in respect of eligibility for empowerment by redefining a

Citizen Company whose definition should clearly and simply be a ***company with at least 51 per cent Zambian ownership in shares.*** This would ensure that only Citizen Companies enjoyed the benefits of the empowerment initiatives.

Executive's Response

The Executive responded that the Government was cognizant of the need to amend the Citizen Economic Empowerment Commission Act by changing the definition of a citizen company to mean a company with at least 51 percent Zambia ownership in shares. In this regard, the Committee was requested to note that the Government through the Ministry of Commerce, Trade and Industry, was in the process of reviewing the Act involving various stakeholders in order to address the observed lacuna among others.

Further, Cabinet, at its 27th Special Meeting held on 15th December, 2020 approved the recommendation to amend the *Citizens Economic Empowerment Act*. One of the issues to be dealt with was the inclusion of a company where 100% of its equity was owned by citizens. As per Cabinet directive, the Zambia Law Development Commission (ZLDC) had since been engaged to undertake a review of the *Citizen Economic Empowerment Act* and make recommendations for the amendment of the said act.

Committee's Observations and Recommendations

The Committee notes the response and resolves to await a progress report on the matter.

ii. Availability and Adequacy of Training Programmes

The previous Committee had observed that training programmes existed but mainly for the smaller categories of contractors and offered limited skills training for artisans who were the key cornerstone of the construction industry in Zambia. The Committee also noted with disappointment that only 5 per cent of the TEVETA registered institutions offered technical and engineering-related training leading to Diploma level qualification. Further, there was also a lack of structures for practical and on-site training to complement classroom training.

In view of this, the Committee had urged the Government to scale up the courses offered to cover more complex and elaborate works as one way in which the major skills and expertise could be passed on to local contractors for them to graduate to more lucrative contracts. The Government should also provide for closer engagement and linkages between industry and academic institutions, so that collaborative programmes relevant to industry and modern technologies could be developed.

Executive's Response

In response the Executive stated that the Government was in the process of amending the *Technical Education, Vocational and Entrepreneurship Training Act of 1998*. The amendment of the Act would help address the challenges and weaknesses of skills development in Zambia. Further, the proposed amendment sought to adopt a deliberate policy to promote trade (TEVET) courses and skills development, as well as promote entrepreneurship. Additionally, the Government was facilitating for joint priority setting between industry and trade schools on the right skills needed including in the construction industry.

Committee's Observations and Recommendations

The Committee notes that an inordinate delay has characterised the undertaking to amend the TEVETA Act. The Committee resolves to request for an update on the amendment of the Act and a time frame within which this processes will be undertaken.

iii. Effectiveness of Strategies

In order to cure the gaps in the initiatives, the previous Committee had urged the Government to establish an effective monitoring and evaluation framework, preferably in the Ministry of Housing and Infrastructure Development to help monitor the performance of these initiatives and increase their effectiveness.

Executive's Response

The Executive responded that the Government through the 7NDP Advisory Bodies (CAGS, NDCC, PDCCs, and DDCCs) had carried out reviews of the performance of the various initiatives with a view to addressing the challenges and increasing their effectiveness.

Committee's Observations and Recommendations

The Committee resolves to request for an update report on the outputs and outcomes on the review processes being undertaken by the advisory bodies.

iv. Adequacy of Legal and Policy framework

The previous Committee had noted that the Legal and Policy framework for supporting local contractor participation in the Zambian construction industry was largely adequate. However, there was poor implementation, enforcement and monitoring of the laws and policies for empowerment initiatives.

The Committee, therefore, recommended that the Government should put in place measures to enhance enforcement, implementation and performance monitoring of the various policies and legislation that support local empowerment initiatives such as the *Citizen Economic Empowerment Commission Act* and the *National council for Construction Act*. This should be coupled with a robust monitoring and review process to enable the continuous evaluation of measures put in place.

Executive's Response

The Committee was informed that the Government was committed to ensuring full implementation, enforcement and monitoring of the laws and policies for empowerment initiatives. In this regard, the Government was strengthening a number of measures such as Cluster Budgeting to ensure effective programme implementation by doing more with less. Cluster budgeting would also ensure full ownership of programmes by implementing Ministries within Cluster Advisory Groups from planning to implementation. Further, since Cluster Advisory Groups were required to report progress on a quarterly basis, MPSAs were compelled to enhance enforcement, implementation and performance monitoring of the various policies and legislation.

Committee's observations and Recommendations

The Committee notes that the Government was putting in place a number of measures to ensure effective programme implementation. The Committee resolves to request the executive to highlight what these other measures were apart from cluster budgeting mentioned above and demonstrate how these measures were improving implementation of programmes.

v. Inadequate Finances

The previous Committee had observed that local contractors faced innumerable challenges, the most significant of which was access to affordable financing and equipment. Additionally, access to some bidding and contractual pre-requisites such as bank guarantees and bonds was a serious obstacle due to the difficult conditions of collateral demanded by financial institutions.

The Committee had, therefore, implored the Government to create an enabling environment for local contractors to access affordable financing and equipment, as well as increase access to bank guarantees and bonds so that they could compete favourably against their foreign counterparts who enjoyed cheaper loans from banks in their own countries. The mere award of a contract should be sufficient security for a bank to render a credit facility with the Government as guarantor. In the long run, the Committee urged the Government to establish a National Infrastructure Development Bank where local contractors could get loans at subsidised rates to meet their working capital requirements, this would enable them acquire the necessary equipment and

technology, to complete their projects on time and to compete favourably with their foreign counterparts.

Executive's Response

The Committee was informed that the Government under the various empowerment programmes was creating an enabling environment for local contractors to access affordable financing and equipment. Under the Citizen Economic Empowerment Commission, the Government had provided financial support to local contractors in the construction industry.

Committee's Observations and Recommendations

The Committee notes that there was reference to 'various empowerment programmes' without explaining what these programmes were. The Committee resolves to request for a more detailed explanation on the creation of an enabling environment under the various empowerment programmes other than citizen economic empowerment commission. The Committee also resolves that the Executive should provide a response on the establishment of a Bank to support infrastructure development**.**

vi. Twenty Per Cent Subcontracting

The previous Committee had expressed concern that the policy on subcontracting which provided for mandatory subcontracting of 20 per cent of all major contracts to local contractors was not effectively backed by legal provisions. There were notable hindrances to the policy listed hereunder:

a) subcontractors did not participate early in the procurement process and were introduced after a contract was awarded;

b) there were no clear guidelines on the implementation of the policy;

c) subcontractors did not take part in determining works; and

d) it was difficult to grow the capacity of local contractors using the 20 per cent subcontracting policy because the main contractors did not show interest in developing and building local contractors' capacity due to lack of incentives.

The Committee therefore, recommended as follows:

a) the Government should involve subcontractors and the scope of works and rates should be identified at tender stage and form part of the evaluation criteria;

b) the Sub-contracting Policy to be strengthened by enacting it into law to ensure strict adherence by main contractors;

c) the contract sum offered to sub-contractors should include preliminary and general items to enable them mobilise to site without difficulties; and

d) to cure the reluctance by foreign contractors in subcontracting locals, the Government should ensure contracts with foreign firms should be on condition of the contractors demonstrating a willingness and ability to build the capacity of local contractors through skills, technology, and operating-capital transfer partnerships.

Executive's Response

The Executive responded that the sub-contracting Regulation to be developed under section 44 of the NCC Act would stipulate the obligations of the main contractor, spell out scope of works to be undertaken and give the right to a local contractor to quote their own competitive rates at tender stage. This would result in more local contractors participating in the Construction Industry.

Committee's Observations and Recommendations

The Committee notes that there was no time frame given as to when the subcontracting regulations would be formulated. The Committee resolves to await a progress report on the matter.

vii. Unbundling of large contracts

The previous Committee had noted that there were many local contractors chasing limited tenders, and that most of high value contracts were given to foreign contractors which resulted in unfair competition for local contractors.

In order to help mitigate these challenges and increase local content in the industry, the Committee recommended that the Government should facilitate the formation of construction cooperatives and mergers of smaller construction firms to pool resources and create single firms which were able to compete for bigger projects. The Government should further seriously consider deliberately unbundling big projects into smaller units for which local contractors would be able to bid for with a view to graduating to higher NCC grades.

Executives' Response

The Committee was informed that the Government through the *National Council for Construction Act. No. 10 of 2020* was committed to addressing the unfair competition

faced by local contractors. Under the Act, no foreign contractor should be awarded a construction project unless the bid was undertaken as a Joint Venture with a Zambia contractor.

Committee's Observations and Recommendations

The Committee resolves to await an update on the steps taken to remove unfair competition faced by local contractors.

viii. Shoddy Works

The previous Committee had observed with great concern that the number of substandard works had increasingly been exhibited by both local and foreign construction companies resulting in financial loss to the clients and a danger to consumers in some instances.

The Committee had urged the Government through NCC to ensure that due process was followed in the awarding of contracts to ensure that contractors were adequately and properly screened to ascertain their capacity to execute the given projects.

Executive's Response

The Committee was informed that the Government through the NCC was revising the legislation criteria of contractors to ensure increased scrutiny for the applicants and to verify their credibility and capacity to execute contracts at each level. Further, the NCC was engaging contracting agencies to ensure they followed guidelines provided by the Council in awarding contracts and ensure the quality of works by both local and foreign contractors was of high quality.

Committee's Observations and Recommendations

The committee resolves to await a progress report on the matter.

ix. Poor Professional Ethics

The previous Committee had observed that poor professional ethics mainly manifested through corruption as a major problem in the Zambian construction industry, and that corruption resulted from lack of transparency in awarding of contracts and non-disclosure of beneficial owners of bidding firms.

To avoid further denying deserving and hardworking Zambian contractors an opportunity to benefit from well-meaning policies like the 20 per cent sub-contracting policy, the Committee urged the Government through NCC to consider introducing a

mechanism where registered firms would nominate a number of eligible firms to float for contracting so as to reduce corruption in the implementation of the policy.

Executive's Response

The Executive responded that Statutory Instrument No. 119 of 2008 on code of conduct was being revised to cater for punitive measures to would be defaulters. Equally the NCC Act had a provision for the Minister to constitute a tribunal to deal with various matters including those of poor professional ethics.

Committee's Observations and Recommendations

The Committee notes that no time frame was given regarding the revision of Statutory Instrument No. 119 of 2008. The Committee resolves to await a progress report on the revision of the said Statutory Instrument.

x. Contractors Threshold

The previous Committee observed that the contractor thresholds provided by the *Citizens Economic Empowerment Act* which limited the value of work each Grade of a construction company could undertake was established in 2003 when the exchange rate between the Kwacha and United States Dollar was very low. Currently the exchange rate had increased a number of folds.

The Committee had recommended that the NCC should revise and upgrade the current contractors' thresholds on the value of works each contractor qualified for in order to allow local contractors to participate in works of higher value.

Executive's Response

The Committee was informed that NCC was revising the thresholds upwards through the review of the registration forms. For example, the threshold for grade 6 contractors which was previously at K 7Million was being revised to go to between K10million and K13 Million.

Committee's Observations and Recommendations

While noting the response, the Committee urges the Government to expedite the revision process in view of the ever changing exchange rates between the kwacha and the US dollar. The Committee awaits a progress report on the matter.

xi. Local Content Strategy

The previous Committee had noted that the non operationalisation of the Local Content Strategy that required that 35 per cent of inputs should be locally sourced had contributed to the low participation of Zambian enterprises.

The Committee had therefore, urged the Government to expedite the operationalisation of the Local Content Strategy to ensure 35 per cent of inputs in growth sectors, including construction were locally procured so as to help empower local firms.

Executive's Response

The Executive responded that the Government in 2018 developed the National local Content Strategy to promote inclusive growth and sustainable development through value addition by increased utilisation of locally available goods and services in growth sectors. To this effect, enactment of the Local Content Bill by Parliament would ensure that 35 percent of the inputs in the sector were sourced locally.

Committee's Observations and Recommendations

The Committee notes the response and resolves to request for an update report on the development of the National Local Content Strategy in the construction sector and requests the Executive to clearly explain the stage at which the enactment of the local content bill had reached.

14.0 CONSIDERATION OF THE ACTION TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON TRANSPORT, WORKS AND SUPPLY FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

THE WATER TRANSPORT SYSTEM IN ZAMBIA

i. Institutional Framework

The previous Committee had requested an update on the Executive's study to ascertain whether a stand-alone water transport authority would be established.

Executive's Response

The Executive responded that the study to ascertain the possibility of expanding the mandate of the Transport Sector Agencies i.e. NRFA, RDA and RTSA was ongoing and the study had reached the recommendation stage. However, the recommendations of the study did not include the possibility of expanding the mandates of the Road Sector Agencies to include the water transport sector as it was not viable. Further, Cabinet advised that due to the Treasury's constrained fiscal space, the Government shall not

establish a stand-alone Water Transport Authority. Therefore, the Ministry was looking at enhancing and expanding the mandate and structure of the Department of Maritime and Inlands Waterways so as to make the Department more effective in the implementation of its mandate.

Committee's Observations and Recommendations

The Committee notes the response from the Executive and requests to be updated on the enhancement and expansion of the mandate and structure of the Department of Maritime and Inlands Waterways.

ii. Pontoon Services

The previous Committee had requested an update on the modernisation of pontoons, improved access roads, landing bays and construction of offices and storage facilities.

Executive's Response

The Committee was requested to note that the Government had rehabilitated and expanded the following pontoons:

i. **Watopa Pontoon**
Installed a 35 ton rehabilitated pontoon to replace the 25 ton pontoon in 2020;

ii. **Lukulu Pontoon:**
Replaced a 12 ton with a 25 ton pontoon From Watopa in 2020;

iii. **Machiya Pontoon**
Rehabilitated and expanded pontoon from 12 tons to 25 tons;

iv. **Machiya Pontoon**
Installed a 40 ton rehabilitated pontoon to replace the 25 ton in 2021; and

v. **Kalongola Pontoon**
installed a 40 ton rehabilitated pontoon to replace the 25 ton in 2021.

Further, the Government had established new pontoon crossing sites in the following locations:

i. Meso Akawa A 12 ton pontoon from Lukulu West was Taken to Meso Akawa crossing point in Mitete District and was commissioned in September 2020; and

ii. Nalolo Pontoon A 25 ton pontoon from Kalongola was taken to Nalolo at Maande crossing point awaiting commissioning once water levels drop in the barotse plains.

The Committee was requested to note that the following remaining programmes would be undertaken in 2021 in line with improving pontoon services:

i. **Lubungu Pontoon** To be rehabilitated in the third quarter of 2021;

ii. **Lunga Pontoon** To be rehabilitated in the third quarter of 2021

iii. **Luangwa Pontoon** Floaters had been to site in readiness to assemble a 40 ton pontoon that would be commissioned in the second quarter of 2021; and

iv. **Luombwa Pontoon** Floaters had been taken to site in readiness to assemble a 25 ton pontoon that would be commissioned in the second quarter of 2021.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on the pontoons that were earmarked to be installed before the end of 2021.

iii. Gazzetting of Harbours and Ports of Registry

The previous Committee had resolved to await an update on the gazetting of all ungazetted ports of registry in the country.

Executive's Response

The Executive reported that in the draft *Inland and Waterways Bill*, provisions for the Minister to gazette ports and harbours had been provided for. Additionally, the Government was undertaking an exercise to capture Global Positioning System (GPS) coordinates for the proposed Harbours and Ports of Registry to be gazetted.

Once this exercise was concluded, the data would be used to inform the decision for the Government on the gazetting of ports of registry. The Committee shall be informed on progress on the matter once finalised.

Committee's Observations and Recommendations

The Committee resolves to await another progress report.

iv. Under Utilisation of Equipment

The previous Committee had requested for a progress report on the matter.

Executive's Response

The Committee was informed that during the period 2019 and 2020, there was an increase of 53.3 % in budgetary resource allocation to the water transport subsector from K4, 386,955 to K9, 385,375 respectively. However, in 2021, the budgetary resource allocation to the subsector reduced by 53.8% to K4, 339,810. This decline was attributed to the Treasury's fiscal constraints.

Despite this challenge, the Government was still trying to work out modalities on how the Treasury could increase budget resource allocation to the water transport subsector for operations and recruitment of necessary skilled staff.

Committee's Observations and Recommendations

The Committee resolves to await another progress report on the matter.

v. Meteorological Services

The previous Committee had resolved to request an update on the procurement of 140 automated weather and marine meteorological stations.

Executive's Response

The Committee was informed that the Government had so far procured twenty automated weather stations and another one hundred and twenty were being procured through the World Bank. Currently, installations of the automated weather stations at Gwembe and Siavonga had been completed and the stations were operational. Additionally, the Government had identified three sites at Samfya, Nchelenge and Mpulungu as areas where the automated weather stations would be installed.

The Committee was also informed that the procurement process for the remaining 120 automated weather station was still ongoing and once concluded, the Committee shall be updated on the matter.

Committee's Observations and Recommendations

The Committee resolves to await a progress report.

vi. Insurance of Water Vessels

The previous Committee had requested for an update on the revision of the *Inland Waters Shipping Act Chapter 466 of the Laws of Zambia.*

Executive's Response

The Committee was informed that following Cabinet approval to repeal and replace the Inland Water Shipping Act on 29th May, 2020, the draft layman's Bill had been submitted to the Ministry of Justice for review. Once consultations were concluded, the Government shall table the Bill before Parliament.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on the matter.

vii. Underdevelopment of Mpulungu Harbour

The previous Committee had resolved to await an update on the development of Mpulungu Harbour.

Executive's Response

The Committee was informed that the Government was still mobilizing resources for the implementation of the project. Engagements with various firms and cooperating partners that had expressed interest to help finance the project were still ongoing. Once these engagements were concluded, the Committee shall be availed with the information.

Committee's Observations and Recommendations

The Committee resolves to await a progress report.

viii. Local Maritime Training Facilities

The previous Committee had resolved to wait for an update on the establishment of a marine training school on the shores of Lake Tanganyika.

Executive's Response

The Committee was informed that as at end of May, 2021, the Government's engagement with the Dutch Government did not materialize. Hence, the Government through the Industrial Development Corporation (IDC) had engaged the African Development Bank (AfDB) and the Development Bank of Southern Africa (DBSA) to rehabilitate and modernize Mpulungu Harbour's equipment, machinery and infrastructure including the establishment of a marine training school on the shores of Lake Tanganyika. AfDB and DBSA responded positively to the Government's request and consequently the two lenders in consultation with the Netherlands Enterprise Agency (RVO), the grantor, had initiated a due diligence and on-boarding process.

The due diligence process would involve the review and structuring of the commercial, financial, legal and technical aspects of the proposed project. Further, IDC through

Mpulungu Harbour Corporation Limited had contracted consultants to undertake an Environmental and Social Impact Assessment (ESIA) exercise.

Committee's Observations and Recommendations

The Committee notes the steps taken and resolves to await a progress report on the matter.

ix. Lack of Navigation Aids

The previous Committee had requested for a progress report on the matter.

Executive's Response

The Committee was informed that the Government remained desirous to ensuring that navigational aids and marks were installed on all water bodies. However, due to the constrained fiscal space coupled with the effects of the COVID19 pandemic on the economy, the Government had not been able to actualise this goal. Once the economy recovers and resources are made available, the Government would embark on the installation of navigational aids and marks.

Committee's Observations and Recommendations

The Committee resolves to await a progress report.

15. CONCLUSION

Since the outbreak of the Covid-19 pandemic in 2019, the Committee had not undertaken any local or foreign visits as part of its oversight mandate. Following the easing of travel restrictions in 2022, the Committee was able to augment its findings through a local tour to Lusaka, Central and Copperbelt provinces and a foreign tour to Zimbabwe. The Committee urges the Government to study its findings and take appropriate action on the observations and recommendations contained in this report.

Finally the Committee wishes to express its profound gratitude to the Hon Madam Speaker and the Clerk of the National Assembly for the invaluable support rendered to it during the Session. The Committee also thanks the various stakeholders who rendered both written and oral submissions during its long meetings and local tours. Great appreciation is also extended to the Parliament of Zimbabwe for hosting and facilitating the Committee during its foreign study visit to that country.

Mr Mubika Mubika, MP
CHAIRPERSON

June, 2022
LUSAKA

APPENDIX I: LIST OF NATIONAL ASSEMBLY OFFICIALS

Mr F Nabulyato, Acting Principal Clerk of Committees (Social Committees)
Mrs C K Mumba, Acting Deputy Principal Clerk of Committees (Social Committees)
Mrs A M Banda, Senior Committee Clerk (Social Committees)
Mr G Zulu, Committee Clerk
Mrs D H Manjoni, Administrative Assistant II
Mrs R M Kanyumbu, Typist
Mr M Chikome, Committee Assistant
Mr D Lupiya, Committee Assistant
Mr M Kantumoya, Parliamentary Messenger
Ms R Mumba, Intern

APPENDIX II WITNESSES

ENGINEERING INSTITUTION OF ZAMBIA (EIZ)

Eng Charity Chola, Vice President
Eng Elias Mwape, Fellow
Eng David Kamungu, Acting Registrar & CEO

MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT

Mr M Hamaundu, Permanent Secretary-Administration
Mr M Nkwemu, Chief Planner

MINISTRY OF FINANCE AND NATIONAL PLANNING

Mr M Chikuba, Permanent Secretary-Budget
Ms B Sinyangwe, Senior Economist
Mr C Silwamba, Senior Budget Analyst

NATIONAL ROAD FUND AGENCY

Eng W Mumba, Chief Executive officer
Mr C Kandeke, Manager-Tolling Infrastructure
Mr C Hara, Director Corporate Affairs

MINISTRY OF TRANSPORT AND LOGISTICS

Mr F Mwalusaka, Permanent Secretary
Mr S Mbewe, Director-Planning
Ms I B Tembo, Chief Planner

ROAD TRANSPORT AND SAFETY AGENCY (RTSA)

Mr G Banda, Chief Executive officer
Mr C Kanchele, Head-Research
Mr F Mubanga, Head- Public Relations
Mr B Sikute, Head- ICT
Mr A Tembo, Legal Counsel
Ms C Zulu, Revenue Accountant

ZAMBIA CHAMBER OF COMMERCE AND INDUSTRY (ZACCI)

Mr A Ranjan, Vice President – Economic Affairs
Mr E Chilufya, Vice President - Infrastructure

Mr P Daka, Chief Executive officer
Mr P Chisunka, Borad Trustee

UNIVERSITY OF ZAMBIA (UNZA) SCHOOL OF ENGINEERING

Prof M Muya, Dean
Prof L Siaminwe, Lecturer
Eng B Mwiya, Lecturer
Dr I N Banda, Lecturer
Eng L H Kamisa, Lecturer

COPPERBELT UNIVERSITY (CBU)

Prof F Muleya, Associate Professor School of the Built Environment
Dr S Simushi, Lecturer, School of the Built Environment
Mr A Mwango, Lecturer School of Engineering
Mr L Lushinga, Lecturer School of Built Environment
Mr G Phiri, Special Assistant to the Vice Chancellor

TRUCKERS ASSOCIATION OF ZAMBIA

Mr P Malindi, Vice Chairman
Mr S Patel, Member
Ms A Kosov, Secretary

MINISTRY OF INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

Mr D Mfune, Permanent Secretary
Mr J Chomba, Principal Engineer

ROAD DEVELOPMENT AGENCY (RDA)

Ms G Mutembo, Acting Chief Executive officer
Mr G Songeya, Acting Director-CTS